REPORT ON STUDY OF SOCIAL SECURITY AS AN INDEPENDENT AGENCY

HEARING

BEFORE THE

SUBCOMMITTEE ON SOCIAL SECURITY

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

REPORT OF THE CONGRESSIONAL PANEL ON SOCIAL SECURITY ORGANIZATION

JULY 30, 1984

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CONTENTS

Page

Press release of July 10, 1984, announcing the hearing 1

WITNESSES

Congressional Panel on Social Security Organization:
- Elmer Staats, Chairman (former Comptroller General of the United States) 16
- Martha Derthick, University of Virginia 16
- Arthur Hess (former Acting Commissioner of Social Security) 16
- P. Royal Shipp, Executive Director 16

General Accounting Office, Richard L. Fogel, Director, Human Resources Division; Andrew F. Kulanko, Group Director; Roland Miller, Supervisory Evaluator; and Robert Rosensteel, Supervisory Evaluator 34

Department of Health and Human Services, Martha A. McSteen, Acting Commissioner of Social Security 44

American Federation of Government Employees, AFL–CIO, John D. Harris on behalf of Kenneth T. Blaylock 85

Association of Administrative Law Judges in the Department of Health and Human Services, Judge Ainsworth H. Brown 91

Bechill, William, SOS Coalition to Protect Social Security (former Commissioner on Aging) 63

Blaylock, Kenneth T. (*See,* American Federation of Government Employees, AFL–CIO).

Brown, Judge Ainsworth H., Association of Administrative Law Judges in the Department of Health and Human Services 91

Cohen, Wilbur J., SOS Coalition to Protect Social Security (former Secretary of Health, Education, and Welfare) 63

Corman, James C., on behalf of James Roosevelt, National Committee To Preserve Social Security and Medicare 11

Fleminger, Robert P., National Council of Social Security Management Associations 78

Harris, John D., on behalf of Kenneth T. Blaylock, American Federation of Government Employees, AFL–CIO 85

Myers, Robert J., Silver Spring, MD (former Chief Actuary, Social Security Administration) 73

National Committee To Preserve Social Security and Medicare, James C. Corman (former Congressman) on behalf of James Roosevelt (former Congressman) 111

National Council of Social Security Management Associations, Robert P. Fleminger and G. Jerry Shaw 78

Pryor, Hon. David, a U.S. Senator from the State of Arkansas 3

Roosevelt, James. (*See,* National Committee To Preserve Social Security and Medicare).

Shaw, G. Jerry, National Council of Social Security Management Associations.. 78

SOS Coalition to Protect Social Security, Wilbur J. Cohen and William Bechill 63

SUBMISSIONS FOR THE RECORD

American Federation of Labor & Congress of Industrial Organizations, Ray Denison, letter 115

American Medical Association, statement 116

McKenna, Hugh F., Lutherville, MD, statement 118

National Association of Disability Examiners, Jeannette Fanning and Marth Marshall, joint statement 120

Ross, Stanford G., Arnold & Porter, statement 121

REPORT ON STUDY OF SOCIAL SECURITY AS AN INDEPENDENT AGENCY

MONDAY, JULY 30, 1984

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON SOCIAL SECURITY,
Washington, DC.

The subcommittee met at 1:30 p.m., pursuant to notice, in room 1100, Longworth House Office Building, Hon. J.J. Pickle (chairman of the subcommittee) presiding.

[The press release announcing the hearing follows:]

[Press release No. 9, Tuesday, July 10, 1984]

THE HONORABLE J.J. PICKLE (D., TEXAS), CHAIRMAN OF THE SUBCOMMITTEE ON SOCIAL SECURITY OF THE COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCED A PUBLIC HEARING TO CONSIDER THE REPORT ON MAKING THE SOCIAL SECURITY ADMINISTRATION AN INDEPENDENT AGENCY

The Honorable J.J. Pickle (D., Texas), Chairman of the Subcommittee on Social Security of the Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee will hold a public hearing on the report of the Congressional Panel on Social Security Organization, concerning establishment of an independent agency for social security, on Monday, July 30, 1984, beginning at 1:30 p.m. in the Committee's main hearing room, 1100 Longworth House Office Building.

Invited witnesses will include the members of the panel, Elmer Staats, who served as Chairman, Martha Derthick and Arthur Hess; the General Accounting Office, which has extensively examined the administrative problems of the Social Security Administration over several years; and representatives of the Administration. The hearing will focus on the Panel's report and recommendations to Congress on how the Social Security Administration might be restructured as an independent agency.

The Social Security Amendments of 1983, P.L. 98-21, established a joint study panel under the authority of the Committee on Ways and Means and the Senate Committee on Finance to undertake a study concerning the implementation of removing the Social Security Administration from the Department of Health and Human Services and establishing it as an independent agency in the executive branch. This law directed the panel to address several issues including the manner in which the transition to independent status would be accomplished, the authorities which would have to be transferred or amended, the programs to be included in the new agency, the legal and other relationships of the agency with other government organizations, including General Services Administration, Office of Management and Budget and Office of Personnel Management, etc. The panel submitted its report to Chairman Rostenkowski and Chairman Dole on June 12, 1984.

In announcing the Subcommittee's hearing, Chairman Pickle noted the importance of focusing Congressional attention on the administrative structure of the Social Security Administration. "This agency," Mr. Pickle noted, "is responsible for paying benefits to over 35 million Americans, maintaining wage records for over 116 million workers, and handling the claims and information requests for millions of others. Congress can have no higher priority than to insure the efficient, fair and even-handed administration of the social security programs. This hearing represents the beginning of serious Congressional inquiry into the best way to do that, whether

through an independent agency, or through any other or additional changes that might be necessary. We must guarantee that this extremely important program receives sufficient administrative support and is run in a fair and equitable manner."

DETAILS FOR SUBMISSION OF REQUESTS TO BE HEARD

Individuals and organizations interested in presenting oral testimony before the Subcommittee must submit their requests to be heard by telephone to Harriett Lawler ((202) 225-3627) no later than noon, Monday, July 23, 1984, to be followed by a formal written request to John J. Salmon, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. Notification to those scheduled to appear will be made by telephone as soon as possible after the filing deadline.

In order to assure the most productive use of the limited amount of time available to question witnesses, witnesses scheduled to appear before the Subcommittee are required to submit 100 copies of their prepared statements to the Main Committee office, room 1102 Longworth House Office Building, at least 24 hours in advance of their scheduled appearances.

It is urged that persons and organizations having a common position make every effort to designate one spokesman to represent them in order for the Subcommittee to hear as many points of view as possible. Time for oral presentations will be strictly limited with the understanding that a more detailed statement may be included in the printed record of the hearing. This process will afford more time for members to question witnesses. In addition, witnesses may be grouped as panelists with strict time limitations for each panelist.

Each statement to be presented to the Subcommittee or any written statement submitted for the record must contain the following information:

(1) The name, full address, and capacity in which the witness will appear (as well as a telephone number where the witness or a designated representative may be reached);

(2) A list of any clients or persons, or any organization for whom the witness appears; and

(3) A topical outline or summary of comments and recommendations.

WRITTEN COMMENTS IN LIEU OF PERSONAL APPEARANCE

For those who wish to file a written statement for the printed record of the hearing, six copies are required and may be submitted by the close of business Monday, August 13, 1984, to John J. Salmon, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515. An additional supply of statements for the printed record may be furnished for distribution to the press and public if supplied to the Committee office before the hearing begins.

Chairman PICKLE. The Chair will call the subcommittee to order, and ask our guests to please take seats. We are going to proceed because we have a rather long list of witnesses today and we want to hear from each one of them.

The Chair is going to make an initial statement and then proceed with the witnesses. The purpose of our hearing this afternoon is to take testimony on the Report of the Congressional Panel on Social Security Organization on Establising An Independent Agency for Social Security. Under the distinguished chairmanship of Mr. Elmer Staats, the panel has spent many months listening to the views of a great many experts in administration.

The panel was established by the Social Security Amendments of 1983 to undertake a study concerning the steps necessary for removing the Social Security Administration from the Department of Health and Human Services and establishing it as an independent agency in the executive branch.

This agency is responsible for paying benefits to over 36 million Americans and for maintaining wage records for over 116 million workers. Because this is a program which affects all Americans it

is essential that every step be taken to ensure that it is administered in an efficient, fair, and even-handed manner. This hearing is part of a continuing review by the Congress as to how best to meet this responsibility, whether through an independent agency, or other changes which might be necessary.

I want to thank and commend the panel for the superb work it has done to clarify this complex, difficult and sensitive issue. We are indebted to the members of this panel—Mr. Staats, Dr. Derthick and Mr. Hess—for their lucid and objective analysis and for the clarity and directness of their recommendations.

It will now be our task in the Congress to assess these recomendations, as well as the views of others who may have different perspectives, and arrive at a policy that will help us achieve the goals of more effective management and bipartisan development and implementation of Social Security policies. It is clear that some congressional direction will be needed if we are to assure any progress toward these goals.

On this point, the panel has made a clear and convincing case. As the panel has correctly concluded:

> A variety of external and internal factors have contributed to the agency's recent state of administrative disorientation * * * SSA needs a period of strong, stable leadership to resolve continuing operating problems.

The issue now is precisely what measures and mechanisms would best help us achieve that objective.

We have two witnesses with us now at the table, and we are going to recognize Senator David Pryor first. Mr. Pryor is our colleague from Arkansas, who served with us in the House and whom many of us have learned to respect and admire for many years. He has rendered great service now in that other body. I have had the privilege of meeting with him on a disability hearing in his home State a few months ago, and it was perhaps the best of all the hearings throughout the country.

I know of your personal involvement and personal interest in trying to advance the Social Security Program and the disability program both, Senator Pryor, so we are pleased to have you with us today and we will be glad to recognize you.

STATEMENT OF HON. DAVID PRYOR, A U.S. SENATOR FROM THE STATE OF ARKANSAS

Senator PRYOR. Mr. Chairman, thank you very much. I am very pleased today to be with you for a few moments. I am not going to read my statement. I know you will be relieved to hear that. I am going to summarize it briefly.

Chairman PICKLE. It will be included in the record.

Senator PRYOR. I am also very honored to be seated alongside my good friend and a great friend of the Congress and the American people, Mr. Elmer Staats. I cetainly look forward to the statement that he is going to make on his proposal. He is truly one of the finest public servants this country has had.

I have said on many occasions that although he officially is no longer with the General Accounting Office as Comptroller General, he is absolutely one of the finest individuals and has a great interest in seeing this Government work well, and I congratulate him

for the fine work that he has done in the past, and also for the report that he has submitted to the Congress in recent weeks.

On June 20, Mr. Chairman, Congressman Roybal and I introduced legislation in the House and in the Senate, H.R. 5904 and S. 2778, which establishes an independent agency to administer the old-age, survivors, disability, and supplemental security income programs.

Briefly, this legislation would establish an independent agency, and this agency would be administered by a five-member board with staggered 10-year terms. Board members would be nominated by the President and confirmed by the Senate. One member of the board would be chosen by the President to act as board chairman.

Among the board members' responsibilities would be to act as trustees for the trust funds, to appoint a commissioner to act as chief operating officer, to make and defend budgetary recommendations to the Congress and to provide analysis, information and recommendations to the President and the Congress on proposed changes in Social Security programs. In short, the board would be responsible for making decisions regarding program policy.

As stated, the legislation we have introduced directs the board to appoint a commissioner for a 5-year term. The commissioner would have direct responsibility for administering Social Security programs in accordance with the law and regulations. The commissioner would develop and maintain the operational structure of the agency, prepare and defend the administrative budget to the Congress and the board, and would develop and implement a long-range plan for updating of the agency's automatic data processing systems.

The bill would also establish a public ombudsman, who is appointed by the board to a 5-year term. His or her responsibilities would be to represent the concerns of the public to the board, commissioner, President, and the Congress. This office would provide staff support to a Citizens' Advisory Committee, which is a nine-member board established within the legislation to formally represent the public regarding the agency's performance and adherence to program goals.

This legislation also establishes within the new agency an Inspector General, a beneficiaries' bill of rights, and a requirement for a report after 5 years from the GAO, the Secretary of HHS, and the board, assessing the organizational changes required by the legislation.

Mr. Chairman, I believe that the board structure, with a board-appointed commissioner, would greatly enhance the operations of the new agency. Historically, the Social Security agency has had major management and policy problems, stemming in part from the lack of strong and consistent leadership.

Over the last 12 years, as the Staats report has pointed out, there have been nine different commissioners at the Social Security Administration, and for the last 18 months—a time during which the Congress has drafted, debated, and approved two historic pieces of Social Security legislation, the 1983 reform bill and the 1984 disability amendments—the Social Security Administration has had no confirmed, permanent commissioner.

Beyond these extremely important policy concerns, this lack of leadership has resulted in major operation and management problems which have contributed to low public confidence and employee dissatisfaction.

I believe, Mr. Chairman, that this legislation incorporates the best recommendations of previous studies, and proposes an organizational structure that meets the unique requirements of this particular agency. I strongly believe, Mr. Chairman, that this legislation would also help to depoliticize the Social Security Administration. We have seen time and time again that many of our elderly recipients are scared to death from one election to the next, as to whether their benefits will continue or be discontinued.

In many cases—and I think we are all familiar with these cases, we don't need to talk about individual administrations or individuals per se—we have made the senior citizen and the recipient of Social Security benefits a political football within our system.

I am hoping that this legislation introduced by Congressman Roybal and myself, giving the Social Security Administration independent status, will be duly considered, and hopefully we will also consider other alternatives and other approaches to helping give continuity to the Social Security system and to this agency which handles such a huge amount of money and also deals with such an enormously complicated challenge as it goes about its business.

Mr. Chairman, I would like to submit my statement for the record.

Chairman PICKLE. Your entire statement will be included in the record.

Senator PRYOR. I appreciate that very much.

[The prepared statement follows:]

STATEMENT OF HON. DAVID PRYOR, A U.S. SENATOR FROM THE STATE OF ARKANSAS

Mr. Chairman, I would like to take this opportunity to thank you and other members of this Committee for allowing me to present testimony at today's hearing. I believe that there is widespread support for the establishment of an independent agency for Social Security retirement programs, and I am hopeful that the Congress will, in the near future, enact such legislation. It is, therefore, appropriate to begin the examination of different structural recommendations for an independent agency, recognizing that the major thrust of today's meeting is to explore the proposals presented by a special panel headed by Mr. Elmer Staats.

I do want to commend the very distinguished individuals who developed this report and pay special tribute to Mr. Staats, with whom I had the pleasure of working during his excellent tenure as head of the General Accounting Office. I appreciate the opportunity to present an alternative which Congressman Roybal and I believe to be a preferable organizational structure for the Social Security Administration.

During the early 1980's, there was much discussion in the Congress about the need to financially stabilize the ailing Social Security fund. As part of that discussion, the recommendation that Social Security programs be administered by an independent agency was an idea which was frequently raised. The final Social Security Financing Amendments of 1983 requested a "thorough study with respect to the implementation of removing the Social Security Administration from the Department of Health and Human Services and establishing it as an independent agency in the executive branch with its own independent administrative structure, including the possibility of such a structure headed by a board appointed by the President, by and with the advice and consent of the Senate." The result was the Staats panel report, which was delivered to members of this Committee and the Senate Finance Committee on June 12, and will be outlined by the next panel of witnesses.

On June 20, Congressman Roybal and I introduced legislation in the House and the Senate (H.R. 5904 and S. 2778) which establishes an independent agency to ad-

minister the Old Age and Survivors, disability and Supplementary Security Income programs. Briefly, the legislation would establish an independent agency, and this agency would be administered by a five-member Board with staggered ten-year terms. Board members would be nominated by the President and confirmed by the Senate. One member of the Board would be chosen by the President to act as Board Chairman.

Among the Board members' responsibilities would be to act as trustees for the trust funds, to appoint a Commissioner to act as chief operating officer, to make and defend budgetary recommendations to the Congress, and to provide analysis, information and recommendations to the President and the Congress on proposed changes in Social Security programs. In short, the Board would be responsible for making decisions regarding program policy.

As stated, the legislation we have introduced directs the Board to appoint a Commissioner for a five-year term. The Commissioner would have direct responsibility for administering Social Security programs in accordance with the law and regulations. The Commissioner would develop and maintain the operational structure of the agency, prepare and defend the administrative budget to the Congress and the Board, and would develop and implement a long-range plan for updating of the agency's automatic data processing systems.

The legislation establishes a public Ombudsman, who is also appointed by the Board to a five-year term. His or her responsibilities are to represent the concerns of the public to the Board, Commissioner, President, and the Congress. This office would provide staff support to the Citizens' Advisory Committee, which is a nine-member board established within the legislation to formally represent the public regarding the agency's performance and adherence to program goals.

The legislation also establishes within the new agency an Inspector General, a beneficiaries' bill of rights, and a requirement for a report after five years from the GAO, the Secretary of HHS, and the Board, assessing the organizational changes required by the legislation.

I believe that the Board structure, with a Board-appointed Commissioner, would greatly enhance the operations of the new agency. Historically, the Social Security agency has had major management and policy problems, stemming in part from the lack of strong and consistent leadership. Over the last twelve years, as the Staats report has pointed out, there have been nine different commissioners at the Social Security Administration, and for the last eighteen months (a time during which the Congress has drafted, debated, and approved two historic pieces of Social Security legislation—the 1983 reform bill and the 1984 disability amendments) the Social Security Administration has had no confirmed, permanent Commissioner. Beyond these extremely important policy concerns, this lack of leadership has resulted in major operation and management problems which have contributed to low public confidence and employee dissatisfaction.

In S. 2778/H.R. 5904 the policy and management functions have been separated. The five-member Board with staggered ten-year terms and Board-appointed Commissioner with a five-year term should help to prevent the frequent turnover and extended vacancies in leadership experienced in recent years. The development of "institutional memory" referred to in the Staats report would be enhanced. This organizational structure should also increase the agency's ability to attract capable management personnel which could be held more accountable for its responsibilities.

The legislation which I have outlined for this panel today is similar in structure to that of the agency which originally governed Social Security programs. Our hope, in proposing this organizational structure, is to restore and revitalize the Social Security agency so that it can best perform its historic mission—that of providing primary cash benefits for eligible retired and disabled workers, their dependents, and survivors, and the operational responsibilities which are related to these benefits. I believe that this legislation incorporates the best recommendations of previous studies and proposes an organizational structure that meets the unique requirements of this agency.

It is my hope that, if implemented, the new structure would help to de-politicize Social Security issues, and insulate beneficiaries from the threat of precipitous benefit reductions and arbitrary budget cutting measures.

I want to thank this panel again for allowing me to present testimony today. I would also request that a prepared document which explains the legislative proposal in greater detail be printed in the record of this hearing on behalf of myself and the distinguished Chairman of the House Aging Committee, Congressman Roybal.

Material Submitted by Hon. David Pryor, U.S. Senate and Hon. Edward R. Roybal, U.S. House of Representatives

Following are two documents submitted for the RECORD of the Ways and Means Committee hearing of July 30, 1984, regarding the Staats panel recommendations for an independent Social Security agency, submitted on behalf of Congressman Roybal and Senator Pryor.

The first is a fact sheet describing the structure of the independent Social Security agency as proposed in H.R. 5904/S. 2778. The second is a comparison of the differences between the Staats panel recommendations and the Roybal/Pryor legislation.

[Factsheet]

An Independent Social Security Agency—As Proposed by S. 2778 Introduced by Senator David Pryor and H.R. 5904 Introduced by Congressman Edward R. Roybal

(1) GENERAL STRUCTURE AND RESPONSIBILITY

Remove the Old Age, Survivors and Disability Insurance programs plus Supplemental Security Income from HHS and place them under a free standing Social Security Agency. (Leave Medicare/Medicaid, Refugee Resettlement, AFDC, Energy Assistance and Child Support Enforcement in HHS).

The Agency is governed by a five member Board of Directors which appoints a single Commissioner to a five year term. A public Ombudsman represents citizen concerns expressed by a nine member Citizens' Advisory Committee. An Inspector General assesses Agency performance.

The management of the Agency is strengthened by giving it greater flexibility and independence from GSA and OPM as recommended by the Staats Panel.

(2) THE BOARD OF DIRECTORS

Membership

Five members nominated by the President and confirmed by the Senate for ten year terms staggered so that one term expires at the end of each even numbered year. The Chairman is appointed by the President. (Three initial board members are appointed to terms ending in 1989, 1991, and 1993. Two additional board members are added in 1989, with terms expiring in 1995 and 1997). Removal during term requires a finding of neglect of duty or malfeasance by the President which must be transmitted in writing to Congress in five days.

Responsibilities

(A) To govern the Agency through regulation.

(B) To appoint a Commissioner to be Chief Operating Officer.

(C) To act as Trustees for the Social Security Trust Funds. Other Trustees are the Secretaries of the Treasury and HHS and two public members required by the 1983 Amendments.

(D) To make budgetary recommendations and defend such recommendations before the Congress.

(E) To provide analysis, information and recommendations to the Congress and the President on proposed changes in Social Security programs.

(F) To conduct policy analysis and research.

Due to the board's responsibilities, its staff includes SSA's current Office of the Actuary, Office of Policy, and Office of the General Counsel.

(3) THE COMMISSIONER

The Commissioner is appointed by the Board to a five year term (except that the first term ends December 31, 1989). Removal during the term requires a majority vote of the full Board following findings of neglect of duty or malfeasance which must be transmitted in writing to the Congress within five days.

Responsibilities

(A) To be the chief operating officer responsible for administering Social Security programs in a manner consistent with law and regulations.

(B) To devise and implement long-run plans to improve the effectiveness and administration of these programs.

(C) To organize and maintain an efficient and effective operational structure. Such structure shall include a separate Office of Hearings and Appeals headed by a

Chief Administrative Law Judge nominated by the Commissioner and appointed by the Board to a five year term (except that the initial appointment ends December 31, 1990). Among other qualifications, the chief ALJ must have at least five years experience as an ALJ in SSA.

(D) To prepare and defend the administrative budget and special administrative initiatives before the Board and the Congress.

(E) To advise the Board and the Congress of the administrative impact of legislative changes in Social Security programs.

(F) To act as Secretary to the Board of Trustees.

(G) To make an annual report to the Board and the Congress on the administrative endeavors and accomplishments of the Agency.

One organizational structure a Commissioner at his/her discretion might establish could include offices for: 1) Program Operations; 2) Field Operations; 3) Central Operations; 4) Management, Budget and Personnel; 5) Computer Systems; 6) Assessment and Evaluation; and 7) External Affairs.

(4) THE OMBUDSMAN

An Ombudsman is appointed by the Board to a 5 year term (except that the initial term ends December 31, 1991). Removal during term requires a majority vote of the full Board following findings of neglect of duty of malfeasance which must be transmitted in writing to the Congress within five days.

Responsibilities

(A) To represent the concerns of the public, including beneficiaries, to the Board and Commissioner and to the President and the Congress.

(B) To provide staff support to a permanent Citizens' Advisory Committee which issues a biennial report to the Congress assessing Social Security programs, financing and administration.

(C) To make such studies and surveys of administrative effectiveness and program policy goals as he/she deems proper and as requested by a majority of the members of the Citizens' Advisory Committee.

The Citizens Advisory Committee consists of nine part-time members appointed for staggered three year terms with its chairperson elected by the Committee for a one year term. The Speaker of the House, the Majority Leader of the Senate (in consultation with the Chairman of the Committees of Government Operations, Ways and Means, Government Affairs, and Finance) and the Chairman of the Board each appoint three members to be equally representative of beneficiaries, employers (including the self-employed), and employees.

(5) THE INSPECTOR GENERAL

An Inspector General, nominated by the President and confirmed by the Senate, is established pursuant to the Inspector General's Act of 1978 as amended.

(6) OTHER

The legislation includes a statement of a beneficiary's "bill of rights".

The legislation incorporates the recommendations of the Staats Panel on Social Security organization with regard to strengthening management. These recommendations: 1) base SSA personnel budget on a workforce plan rather than a personnel ceiling; 2) allow SSA greater authority for computer acquisition and property management; and 3) allow SSA greater flexibility in recruiting new employees and compensating senior executives.

The Board, GAO, and the Secretary of HHS are required to report to the Congress in five years an assessment of these organizational changes.

COMPARISON OF THE RESPONSIBILITIES AND ORGANIZATION OF AN INDEPENDENT SOCIAL SECURITY AGENCY UNDER THE STAATS PANEL AND H.R. 5904/S. 2778—JUNE 26, 1984

Staats Panel	H.R. 5904/S. 2778
RESPONSIBILITIES	
Transfers the responsibilities for Retirement, Survivors and Disability programs and the Supplemental Security Income program from the Department of HHS to a free standing Social Security Agency.	Same.
GOVERNING BODY	
An Administrator nominated by the President and confirmed by the Senate to a four year term coincident with the President's term. The Administrator is rated at Executive Level II (currently $72,200).	A Board of Directors nominated by the President and confirmed by the Senate for ten year terms. Three initial Board members are appointed following enactment and two others appointed in 1989. Chairman is rated at Executive Level II ($72,200) with members at Executive Level III ($70,800).
CHIEF ADMINISTRATIVE OFFICER	
The Administrator, appointed for a four year term, directs both program policy and administration. The Administrator serves at the pleasure of the President.	A Commissioner, appointed by the Board to a five year term, is the Chief Operating Officer of the Agency. The Board can only remove the Commissioner for cause by a majority vote. The Commissioner, like the Chairman of the Board, is rated at Executive Level II ($72,200).
ADVISORY BODIES	
A nine member Advisory Board appointed for overlapping six year terms. Five members appointed by the President, four by Congress. Part-time with annual salary of $15,000 plus expenses.	A nine member Citizens Advisory Committee appointed for staggered three year terms. Three members appointed by the Board, six by Congress. The membership equally represents beneficiaries, employers (including self-employed) and employees. Part-time; paid $100 per business day plus expenses.
None.	A full-time Ombudsman appointed by the Board for a five year term and removed only for cause. Rated at Executive Level IV ($69,600).
INSPECTOR GENERAL	
An Inspector General appointed pursuant to the Inspector General Act of 1978.	Same.
STRONGER MANAGEMENT AUTHORITIES	
The Agency is given greater autonomy from GSA and OPM for computer acquisition, administrative services and personnel management. The Administrative budget is made on a biennial basis based on workforce plan rather than personnel ceilings.	Same, except that appropriations continue to be made on an annual basis. Most of these enhanced management authorities are specifically vested in the Commissioner.

OTHER

COMPARISON OF THE RESPONSIBILITIES AND ORGANIZATION OF AN INDEPENDENT SOCIAL SECURITY AGENCY UNDER THE STAATS PANEL AND H.R. 5904/S. 2778—JUNE 26, 1984—Continued

Staats Panel	H.R. 5904/S. 2778
None.	An Office of Hearings and Appeals is established and headed by a Chief Administrative Law Judge appointed by the Board from nominees of the Commissioner. The Chief ALJ is appointed to a five year term and can only be removed for cause.
None.	A specific beneficiary's bill of rights is included and required to be displayed in all Social Security facilities.

ANALYSIS OF THE DIFFERENCES

RESPONSIBILITIES

Both the Staats Panel and H.R. 5904/S. 2778 invest the independent Agency with the responsibility for Social Security Trust Fund financed cash benefits programs and the general revenue financed Supplemental Security Income programs. (Medicare/Medicaid, Refugee Resettlement, AFDC, Energy Assistance, and Child Support Enforcement remain in HHS).

GOVERNING BODY

The Staats Panel recommends a single Administrator to be both the policy making and administrative head of the Agency. However, the Panel recognizes that "differences of opinion do arise over how to best organize executive policy formation". (p. 39).

According to the Panel, "the distinctive contributions that administrative agencies make to policy" are "the ability to recall experience—what is often called 'institutional memory'—and a greater capacity to look beyond the immediate future than that possessed by elected officials, who must be mindful of upcoming elections" (p. 40). The Staats Panel then recommends that the Agency be headed by a single executive appointed by the President to a four year term coincident with the President's term. This recommendation essentially perpetuates the current Commissioner selection process which has produced nine Commissioners in 12 years.

In a June 12 Press Conference releasing the Panel's report, Mr. Staats stated that he believed credible, far-sighted leadership is made more likely under the Panel's recommendation because: 1) the Administrator is appointed to a four year term; and 2) a permanent Advisory Council is established and charged with preparing, for the President, a non-binding list of nominees for the Commissioner's position. However, these rationales are not persuasive.

(1) With regard to the four-year term.—The National Academy of Public Administration (NAPA), in a statement on page 129 of the Panel's report, concludes that "political and policy reality is such that a fixed term appointment would not assure any real 'protection' against the strains and conflicts of the political arena, and would not really guarantee the continuity of leadership which is so widely hoped for. A term appointed (Administrator) in a hostile administration, or one lacking the confidence of the Congress, simply would not be effective."

(2) With regard to the non-binding list of nominees presented to the President.—Not one of the nine members of the Panel's advisory board would have been appointed by a new President responsible for nominating the Panel's Administrator. Perhaps a majority may even have been appointed by the new President's predecessor. Therefore, it is likely that the new President will not be well influenced by the Advisory Board's recommendations. Even if the President chooses from the list, that person may not have the access to the President necessary for the Panel's Administrator to have the impact on policy decisions which the Panel desires.

The Staats Panel argues that a single Administrator will "provide expert information, practical judgments, and a long-range view on policy questions more expeditiously and clearly than would a multi-member deliberative body" (p. 40). While ex-

perience has shown that a single Commissioner can confirm the Administration's policy choices "expeditiously and clearly", it has also shown that these choices need not be based most heavily on "expert information, practical judgments (or) a long range view . . .".

"To enable the Administrator to have sufficient stature to deal with members of Congress, with the highest officials in the Executive Office of the President, and with other Departments," the Staats Panel upgrades the Commissioner's job from an Executive Level IV to Level II. However, the Commissioner is not of Cabinet rank and would no longer have a representative at the Cabinet table to defend against OMB recommendations for unwise changes in programs or reductions in administrative capacities. As a Presidential appointee, the Administrator is then obliged to accept and defend the Administration's decisions regardless of the amount of input which the Agency had in developing them. (From a monetary standpoint, the promotion to Executive Level II increases the current Commissioner's salary by only $2,600 per annum: from $69,600 to $72,200. Cabinet officials are paid at Level I, $82,900).

H.R. 5904/S. 2778 establishes a five (initially three) member board to be the Agency's policy making body because, as the Staats Panel states, "good policy making requires the blending of competing views and the balancing of different perspectives" (p. 40).

The Board is designed: (1) to prevent wide fluctuations in policy and administration over a short period of time; and (2) to ensure that Congress and the President are presented with facts and opinions which represent the independent judgment of the Agency's policy makers and career administrators. Although the Board, like the Staats Panel's Administrator, has no formal representative at the Cabinet table, members of the Board, with the possible exception of the Chairperson, will not be bound to publicly support the Administration's positions. The Board member's independence better ensures that the Agency's "institutional memory" becomes part of an Administration's internal policy making process because an Administration which ignores the Board will be required to respond to its authoritative concerns before the Congress and other public forums.

If there had been a Board, many of the administrative debacles and poor policy choices of the last decade may have been avoided.

If there had been a Board, there would be no national controversy surrounding the implementation of the disability reviews required by the 1980 Amendments. The Board/Commissioner structure would have shielded the Commissioner from the shortsighted pressures to purge the rolls through subregulatory guidelines while requiring that she/he implement the reviews as Congress intended.

Under the Presidentially appointed Commissioner, SSA favored the retroactive elimination of the minimum benefit only to see its passage repealed four months later when Congress itself perceived it as impractical and ill-advised. Had there been a Board, it is likely that Congress would have received competent, professional information on the true nature of this proposal prior to its initial passage. Such an authoritative, independent source of information might even prevent future Administrations from making incompetent recommendations which, in the final analysis, weaken their credibility with the Congress.

Three of the last nine Presidentially appointed Commissioners have initiated top level programs to update and upgrade SSA's computer capacities. In the words of the Staats Panel, these efforts have "yet to bring to successful completion the decade-long struggle to design and implement a modernization program for its aging computer system" (p. 27). NAPA quotes the Grace Commission as describing SSA's computer systems as "close to collapse, through years of neglect and mismanagement" (p. 151). Testimony before the Government Operations and Ways and Means Committee confirms that assessment. A Board appointed Commissioner—with a career commitment to SSA's management performance and the legislated authority for multi-year procurement, provided in H.R. 5904/S. 2778—will be in a better position to bring this issue to a close than a continuum of politically appointed Administrators responsible to the President for both Policy and Administration.

Consistent with its policy making role, H.R. 5904/S. 2778's Board has a staff which includes SSA's current Office of the Actuary, Office of Policy, and Office of the General Counsel.

CHIEF ADMINISTRATIVE OFFICER

The Staats Panel invests its single Administrator with responsibility for administration as well as for policy. Their desired result is "to achieve accountability and management effectiveness" (p. 42). However, the National Academy of Public Ad-

ministration (NAPA) states that, given the probable turnover rate of Presidentially appointed administrators, "the best prospect for achieving continuity and leadership ability lies in the appointment of top quality career people in the balance of the leadership positions" (p. 129).

The NAPA statement implies that the Staats Panel's Administrator will primarily concentrate on policy rather than administration. This is probable since, "the President must be able to select a person in whom he has confidence" (p. 43) and because program policy decisions affect literally millions of people and billions of dollars while administrative costs account for less than three percent of total outlays.

H.R. 5904/S. 2778 offers an alternative of a strong Commissioner invested by statute with the responsibility and authority to administer the programs and manage the Agency in a manner consistent with law and Board-written regulations. The Staats Panel did not recommend a Board/Commissioner structure because "the Panel believes that a multi-member board has serious disadvantages in that authority is diffused, and policy and administrative roles can be confused" (p. 41). However, H.R. 5904/S. 2778 carefully spells out the policy making function of the Board while specifically delegating strong management authorities to the Commissioner.

Under H.R. 5904/S. 2778 the Board governs the Agency by regulation and appoints the Commissioner to be the Chief Operating Officer for a five year term. The Commissioner has complete authority to issue the administrative guidelines necessary to implement the law and regulations. If a majority of the Board disapproves of the manner in which the Commissioner carries out the Board's regulations, then the Board can rewrite the regulations with a greater degree of specificity or, by majority vote, remove the Commissioner from office.

While the Board's regulation-writing power gives it a formal means of involving itself in daily administrative matters, it is a cumbersome one. And while the tenured Commissioner has considerable autonomy in administering the programs without interference from the Board, he/she must present the Board (and the Congress) with his/her justifications for the Agency's annual administrative budget and must win the Board's confidence if he/she is to be reappointed for another five year term.

The Commissioner, as Chief Operating Officer, is specifically invested with all of the greater management authorities over personnel, property and the administrative budget recommended by the Staats Panel. The Commissioner is also given authority to organize and maintain an effective and efficient administrative structure. In addition, most of the administrative responsibilities currently invested in the Secretary are transferred to the Commissioner unless they are related to the fiduciary responsibilities of the Trustees.

The Commissioner's policy making responsibilities are limited to providing the Board and Congress with independent analyses of the administrative impact of legislative proposals and sitting as Secretary to the Board of Trustees. Therefore, the Board appointed Commissioner, unlike the Staats Panel's Administrator, not only has the responsibility and the authority to resolve longstanding administrative problems, but she/he also has the time and the inclination to do so.

As for stature, the Commissioner and the Chairman of the Board, like the Staats Panel's Administrator, are rated at Executive Level II ($72,200). Members of the Board are Executive Level III ($70,800).

ADVISORY BODIES

Although the Staats Panel recommended that the Agency be headed by a single Presidentially appointed Administrator, the Panel did recommend that a permanent Advisory Board replace the quadrennial Advisory Councils. The primary functions of the Panel's Board are to provide independent assessments of: 1) the financial status of the Trust Funds; 2) proposed policy and program changes; and 3) quality of service. However, "the Panel emphasizes that this Board would not be in the executive branch 'chain of command', but would be advisory in nature. The Administrator would have the responsibility for the operations and overall management of the agency's programs and would represent the administration before Congress" (p 49).

H.R. 5904/S. 2778 establishes a permanent Citizens' Advisory Committee whose emphasis, as denoted by its name, is on obtaining the consumer/taxpayer's assessment of SSA's service to the public and its program goals. The Citizens' Committee does not replace the quadrennial Advisory Council.

H.R. 5904/S. 2778 also establishes a permanent Ombudsman appointed by the Board for a five year term to represent the concerns of the public and the Citizens' Committee within the Agency and to the President and Congress. The Ombudsman

can conduct studies and surveys as he/she deems fit and/or as directed by the Citizens' Committee.

Although both Advisory bodies have nine members, the Staats Panel recommends they serve for six year terms and that a majority (5) be appointed by the President. Members of H.R. 5904/S. 2778 Citizens' Committee serve for three year terms, with two-thirds (6) appointed by the Congress. The membership of the Citizens' Committee must be equally representative of employers, employees, and beneficiaries and, like the quadrennial Advisory Council, members are paid $100 for each day of Committee business. Members of the Staats Panel's Board are paid $15,000 per annum, and are not required to be representative of specific groups.

The differences between the advisory groups reflect their different functions. The Staats Panel, having decided against an authoritative Board, wants its Advisory Board to play an important role in the basic policy making processes—but it has no substantive authority to do so. H.R. 5904/S. 2778's Citizens' Committee is designed to ensure that the people who pay taxes and receive benefits are formally represented within the Agency primarily on matters pertaining to Social Security's administrative performance and its adherence to program policy goals. The Ombudsman's office is established to ensure that these perspectives are represented on a full-time basis.

INSPECTOR GENERAL

Both the Staats Panel and H.R. 5904/S. 2778 recommend that an Inspector General's Office be established inside the new Agency. The appointment process and functions of an Inspector General are spelled out in the Inspector General's Act of 1978.

STRONGER MANAGEMENT AUTHORITIES

H.R. 5904/S. 2778 incorporate all of the management strengthening recommendations of the Staats Panel except that the Agency's budget will continue to be made on an annual (rather than biennial) basis. H.R. 5904/S. 2778 generally invests these increased management authorities in the Commissioner. The major Staats Panel recommendations codified in H.R. 5904/S. 2778:

(1) allow the Commissioner to assume authority, now residing in OPM, to recruit entry level employees and to set pay and performance standards for those job categories which he/she determines to be unique or essential to the Agency.

(2) allow the Commissioner to assume authority, now residing in GSA, to acquire, lease, maintain and/or contract for computer systems and services.

(3) allow the Commissioner to assume authority, now residing in GSA, over property management, including office facilities.

(4) base the Agency's budget on a workforce plan rather than a personnel ceiling.

(5) increase the number of Senior Executive Service positions by 50 percent and allow the Board to create more positions at Executive Levels IV and V.

(6) provide for multi-year funding of large capital expenditures, including construction and computer acquisitions.

OTHER

Integrity of the ALJ hearing process.—The Staats Panel made no specific recommendations regarding the ALJ appeals process. H.R. 5904/S. 2778 establishes an Office of Hearings and Appeals (OHA) within the Agency. OHA is headed by the Chief ALJ appointed to a five year term by the Board from among the nominees of the Commission. Nominees are required to have at least five years experience as an ALJ in SSA.

The H.R. 5904/S. 2778 proposal is designed to focus attention on the need to deal more comprehensively with the integrity of the ALJ hearings process. Although the overall Board/Commissioner structure will reduce the likelihood that concerted administrative pressure can be brought to bear on ALFs to award or deny benefits, legitimate concerns remain to be addressed in a more comprehensive way.

Beneficiary bill of rights.—Among its list of future challenges for SSA, the Staats Panel includes "defining and achieving an acceptable level of public service" (p. 23) and states that there has "been very little articulation of what the desired levels of public service should be, and thus there are no well formed goals in this area" (p. 24).

Current Social Security law contains no statement of a citizen's right to fair treatment and timely response to his/her claim for benefits and/or request for service. The Staats Panel provided no further clarification. H.R. 5904/S. 2778 codifies a

statement of beneficiary rights and requires it to be publically displayed in all Social Security facilities.

(Prepared for Chairman Roybal and Senator Pryor by Allen Johnston, Subcommittee on Retirement Income and Employment, House Select Committee on Aging (226-3335) and Theresa Forster of Senator Pryor's staff 224-2353.)

Chairman PICKLE. We certainly are glad to have your testimony and to see you again. May I ask you, in the appointment part of the board, the President appoints the board, and then does the board select the chairman of that board, or does the chairman designate the chairman?

Senator PRYOR. In our legislation, Mr. Chairman, the President would name the board chairman.

Chairman PICKLE. You establish a commissioner to carry out the orders of the board. Would the commissioner be selected by the board?

Senator PRYOR. That is correct. The commissioner would be selected by the board.

Chairman PICKLE. So the chairman of the board and the commissioner are two different persons?

Senator PRYOR. That would be correct.

Chairman PICKLE. And an additional position in terms of an ombudsman?

Senator PRYOR. An ombudsman, that is correct, and also a different position for an inspector general for the Social Security Administration. It would be—and I have already been asked informally before the hearing began, Mr. Chairman—would the Social Security Administration be removed from HHS under our legislation? The answer is yes. We think today that HHS is such a large legislative bureaucracy—there is no other word—that we feel that the Social Security Administration should stand on its own, should be independent, and should certainly have a continuity of administrators or commissioners, those who would be dealing with these funds and these programs. In the past we have not had that continuity.

Chairman PICKLE. I will be interested in seeing how this measure compares with what Mr. Staats may be reporting to us. The Chair will also say that the Chair is going to grant Congressman Roybal the right to offer testimony, which he has requested be made a part of this record.

Thank you, Senator.

Senator PRYOR. Thank you, Mr. Chairman.

Chairman PICKLE. Mr. Conable.

Mr. CONABLE. Thank you, Mr. Chairman.

Senator, you did consider other possible structures for an independent Social Security. Would you just expand on that a little, and tell us why you settled on the board, the presidentially appointed chairman, the separate commissioner hired by the board, and so forth.

Were your purposes, for instance, primarily to give administrative integrity to the process, or were they designed to minimize the politics in the process? What were the considerations you looked at? I would appreciate any further elucidation of your reasons.

Senator PRYOR. Mr. Conable, I think that the policies of the Social Security Administration, both were prime factors in coming

up with the idea or the concept of a board itself, a five-member board, all nominated by the President, confirmed by the Senate, and this board, once in place, then naming the person to administer the Social Security Administration. We thought that this would be independent from the political process as much as possible. We thought that this would provide continuity of services through different administrations.

Finally, we also felt that this independent board named by the President and confirmed by the Senate, and staggered terms, would also truly help to depoliticize the system as much as we could.

We must remember, when Social Security became a part of the economic and social fabric of this country in 1935, the original administrative structure of the Social Security system was independent. It was an independent agency then, and somehow or another down through the years, we started to incorporate the agency under various cabinet-level positions, and to my thinking—and I hope the committee will certainly look at the thinking of all of us in this field—it should be restored to its original, independent status. An independent board of this nature would help to depoliticize this, and help to maintain a continuity, and to remove the Social Security issue from every congressional, Senate, and Presidential election. I think the older people of our country would breathe a sigh of relief, if they felt that there was independence in the board.

Finally, some years ago we saw figures about the trust funds, how little interest, how little return we were receiving on the money of the trust fund being invested. We also feel that people of great expertise in finance could be very helpful to such an independent board, in investing these funds to receive the maximum amount of return, so that once again the recipient in the Social Security Program and the future recipients of that program would be recognized and taken care of.

Mr. CONABLE. You are not suggesting a different mode of financing, of investing the trust fund, are you?

Senator PRYOR. We are not suggesting a different mode. We are suggesting that probably greater expertise be utilized in the field of investing the trust funds.

Mr. CONABLE. That is pretty well prescribed by the law. The funds are invested in Government bonds, of course, and Government investments are paid an interest rate based on the average; you understand that.

Senator PRYOR. I do understand.

Mr. CONABLE. There is not a lot of room for expertise there, at least unless you go outside the law. I don't mean to argue about that. Clearly, it is desirable to have people with financial acumen in positions of fiduciary responsibility. Thank you very much, Senator.

Senator PRYOR. Thank you, Congressman.

Chairman PICKLE. Senator Pryor, we appreciate your testimony.

Senator PRYOR. Thank you, Mr. Chairman.

Chairman PICKLE. We will be glad to hear from the chairman of the congressional panel established to handle this question. I must say that we have no more experienced man in Government than Elmer Staats. He brings to this panel a great deal of background in

the field of administration, and we appreciate his giving us his viewpoints on this overall panel.

We are certainly pleased to have you. I see you have with you Martha Derthick. She is the Julia Allen Cooper professor, Department of Government and Foreign Affairs, University of Virginia. We have Mr. Arthur Hess, who is a member of the panel, former acting commissioner of Social Security, and of course Mr. Staats is now chairman of the Harry S. Truman Scholarship Foundation, and the former Comptroller of the United States.

Chairman PICKLE. Mr. Staats, we will be pleased to hear from you.

STATEMENT OF ELMER STAATS, CHAIRMAN, CONGRESSIONAL PANEL ON SOCIAL SECURITY ORGANIZATION (HARRY S. TRUMAN SCHOLARSHIP FOUNDATION, FORMER COMPTROLLER GENERAL OF THE UNITED STATES); MARTHA DERTHICK, PH.D., JULIA ALLEN COOPER PROFESSOR, DEPARTMENT OF GOVERNMENT AND FOREIGN AFFAIRS, UNIVERSITY OF VIRGINIA; ARTHUR HESS, MEMBER (FORMER ACTING COMMISSIONER OF SOCIAL SECURITY); AND P. ROYAL SHIPP, EXECUTIVE DIRECTOR

Mr. STAATS. Thank you, Mr. Chairman. I have a long prepared statement which I would like to submit for the record, and with your permission I would just like to highlight the statement for just a few minutes.

I would first of all like, Mr. Chairman, to express our appreciation to the House Ways and Means Committee and the Senate Finance Committee for their cooperation in our effort. We have had excellent cooperation from both the House and the Senate. Irv Hytner has sat in on most, if not all, of our public hearings and has been very helpful to us. Royal Shipp, to my left here, served as our executive director, assembled a fine staff, drawing from the Congressional Research Service, the Department of Health and Human Services, and the GAO. He pulled together a vast amount of background material and laid out a good work plan for the panel.

Our report is a unanimous report. We had, as you might guess, considerable give and take in our discussions. I believe these added to the value of our report. The different backgrounds of the three of us was also helpful.

We held 6 public hearings, and heard from some 53 witnesses who were asked a common set of questions in advance. The list of witnesses is included in our report, which I believe you have available to you.

In addition to the hearings, we had available many articles, reports from GAO, the Grace Commission, and many others. As you know, our assignment was not to make recommendations on whether the Social Security Program should be established in a separate agency. Rather, you requested us to formulate a plan to establish a separate agency, should that be the wish of the Congress.

In other words, apparently what the two committees had in mind was to reserve judgment on a separate agency until they could assess how a separate agency would be best structured.

The proposal for a separate agency has been argued on several grounds. One is the need to provide a stronger management leadership for what is, agreeably, one of the largest and most complex operating programs in the Federal Government. Another is that the program affects so many people, for the most part low-income and older people, that we should build in whatever safeguards are feasible to be sure that the program is carried out in a nonpartisan professional manner, and with reasonable continuity of top management.

From our report, you will note that we believe that steps can be taken to help accomplish the objective whether the SSA is created as a separate agency or left in HHS. We have included in chapter 5 actions which could be taken, if the SSA is left in HHS, which in some ways do not go as far as the steps which we have outlined for a completely separate agency.

We agree that this is indeed an important objective, and Congress must make a judgment as to which approach provides the greatest opportunity to accomplish this objective, but, importantly, the panel is in agreement that some action is required which will involve new legislation by the Congress.

I believe I speak for the three members of the panel in underscoring the organizational changes won't per se guarantee that the well-known fears about the future of the program will be entirely removed, but they can help.

A few witnesses argued for a separate agency headed by a bipartisan board or a commission of three or five members with the chairman designated by the President. This board would then appoint an executive director, who would be responsible for day-to-day operations.

Most of our witnesses, however, argued that a program of this size and complexity should be headed by a single administrator. The panel concluded in favor of a single administrator, which when coupled with the advisory board of the type and with the charter which we recommended, will provide in our opinion a good balance between the need for a strong administrator responsible to the President, but with a board which would provide advice, assistance, and protection for the integrity of the Social Security Program.

Multiheaded agencies function best in a regulatory or adjudicatory capacity. They are notoriously poor in managing large, complex programs. In fact, we found no good model in the Federal Government to support the argument for a multiheaded Social Security Program. In fact, the documented history of the Social Security Board in the 1930's reflects great confusion in the roles of the board and the executive director, which in our opinion would be most likely to be repeated if a new full-time board or commission were to be established.

We feel equally strongly that a bipartisan advisory board, along the lines proposed, is essential. It would be made up of nine members, no more than five of whom could be of the same political party. The President would name five members and the Congress would designate four members, two by the President of the Senate,

two by the Speaker of the House. These members would serve 6-year staggered terms.

Importantly, we emphasize the need for having a continued advisory board in lieu of the ad hoc advisory councils and commissions which have been established in the past.

This board would make an independent assessment of the annual reports of the Board of Trustees. It would undertake studies on its own initiative. It would be available for testimony before congressional committee. It would have an opportunity to meet with and hear the views of affected groups throughout the country, and perhaps most important of all—and I underscore this—it would suggest names to the President for his consideration of nominees for the position of Social Security Administrator.

We believe the recommendation is particularly important because it would go a long way toward assuring that a professional administrator is appointed to the position, and the appointment of an individual who would be acceptable to both political parties.

We have enumerated in more detail the specific responsibilities of the board in our prepared statement.

In order to assure continuation of Presidential responsibility and accountability, we believe that the administrator should be appointed by the President for a 4-year term coterminus with that of his own. He would be eligible for reappointment.

We were greatly impressed by testimony received from a large number of witnesses, both inside and outside the Government, that the SSA has not had the management flexibility required to carry out its responsibilities in an efficient manner. We were reinforced in this view by a report prepared by the National Academy of Public Administration entitled "Revitalizing Federal Management," which urges that steps be taken to provide greater management flexibility throughout the Federal Government, with less micromanagement on the part of the central control agencies. We therefore made recommendations to the Congress that the Congress direct the permissible delegations now available to these agencies to be granted to the administrator.

Finally, we concluded that the new agency should be responsible for the administration of the Supplemental Security Income Program, but that other programs now administered by the SSA should be retained within HHS.

We came to this conclusion in part because, first, the SSI and SSA programs are so closely related that it would not make good sense to separate them, but also we felt that other programs were not so closely related that they could not be better left in HHS.

There are some who would like to see the local SSA offices be in a position to provide beneficiary service for medicare and medicaid as well as Social Security and SSI. Medicare applications are currently taken in SSA's field offices, and SSA provides beneficiary information and data to SSA from its computer system.

Our conclusion was that a separate agency need not impair this arrangement, only that a workable agreement be developed between HHS and the new Social Security Administrator in much the same way as working today.

You will find in our report several appendices which we believe will be of interest to the committee, including draft legislation, a

suggested transition plan, and the report of the National Academy of Public Administration on management delegations, which they have proposed be made to a new Social Security Administrator.

This concludes my summary, Mr. Chairman. I would like to suggest that my colleagues may have something they would like to add. I would like to emphasize again we had a very good working relationship. We were unanimous in our report, and it was a delight for me to have a chance to work with them.

Chairman PICKLE. Thank you, Mr. Staats.

[The prepared statement follows:]

STATEMENT OF HON. ELMER B. STAATS, CHAIRMAN, CONGRESSIONAL PANEL ON SOCIAL SECURITY ORGANIZATION

Mr. Chairman, Members of the Committee, I am pleased to respond to your request to discuss the Report of the Congressional Panel on Social Security Organization submitted to this Committee and to the Senate Committee on Finance on June 12.

Before I turn to the substance of the Panel's Report, let me take a moment to express my appreciation to the Committee and its staff, particularly staff director Erv Hytner, for the excellent support provided to the Panel during our deliberations. As you know, Mr. Chairman, these ad hoc efforts demand both substantive and logistical support which the Committee and the staff have unfailingly provided.

Let me also say a few words about my very distinguished colleagues on the panel, Martha Derthick and Arthur Hess. I cannot imagine a chairman more blessed with co-workers than I was. Martha and Art not only brought theoretical expertise and practical experience to our work, they also provided good will, flexibility and dedication. Our Report, Mr. Chairman, is a team effort in every sense, and one that I am extremely proud to have been part of. Our Report was unanimous.

Now, Mr. Chairman, I would like to begin my discussion of the Report itself by describing—briefly—how we went about our task. First the Panel agreed on the criteria it would use to guide analysis of options to be considered and issues to be resolved in setting up an independent social security agency. Then the Panel held six public meetings and heard from 53 expert witnesses as a means of gathering information, advice, and comments on our proposed criteria. The full list of those witnesses is included in the appendix to our Report, Mr. Chairman: they included current and former Secretaries of Health and Human Services, Commissioners of Social Security, officials from other agencies and departments including the OMB and GAO, experts in public administration, representatives from national organizations—labor and the elderly, as well as social security employees themselves.

In addition, the Panel's staff provided us with background papers and reports prepared by the General Accounting Office, the President's Private Sector Survey on Cost Control (The Grace Commission), the Congressional Research Service, the National Academy of Public Administration and private contractors, not to mention analyses prepared by the staff itself. In short, Mr. Chairman, we did not lack for information.

Nor did we lack opinions and ideas about how best to establish an independent social security agency. Indeed, although our charter was to develop an implementation plan for creating an independent agency, we heard extensive testimony about the advisability of making the Social Security Administration independent. Given the Congress' clear mandate, however, our Report only addresses what—in our judgment—is the best course for the Congress to follow should it decide to make the social security agency an independent entity. Though our recommendations presume independence they should not be interpreted as an endorsement of it. Nor do we endorse retention within the Department of Health and Human Services.

GENERAL CONCLUSIONS

Rather than simply listing the Panel's recommendations at this point, Mr. Chairman, I would like to summarize some general conclusions based on the testimony we heard and the reports we read. I would begin by acknowledging that neither we nor any other group could become bona fide experts on social security policy or administration in six short months. The organization's operations and policy responsibilities are extremely far-flung and complex. Nonetheless, as we listened and read, certain themes were consistently repeated:

There is wide-spread desire and expectation for the policymaking process for social security to be balanced—both the President and the Congress will be well-served if the long-range implications of policy proposals are clearly and effectively taken into account in the policy formulation process; and

There is considerable evidence that the Social Security Administration (SSA), once considered one of the best-managed and most efficient agencies in the Federal establishment, no longer provides the quality of public service that the American people have come to expect and believe the have paid for with their contributions to the system.

I suspect that neither of these conclusions will come as any surprise to the Members of this Committee. The operational problems of the Social Security Administration have been widely discussed in the mass media in recent years, and your Committee is fully aware of SSA's difficulties in modernizing its aging computer system, acquiring modern, accessible office space, and so on. These problems have also been dealt with in numerous reports of the General Accounting Office. Concern over the policy formulation process has been heightened in recent years due in large part to the financial difficulties of the old age, survivors, and disability (OASDI) programs. In the effort to reduce costs in order to bring funding for the programs into balance, many observers believe that proposals have been advanced to reduce benefits or tighten eligibility without adequate consideration of the long-term nature of the benefit obligations earned under social security.

EFFECT ON PUBLIC CONFIDENCE

During the Panel's public hearings, we heard reports of a perceived decline of public confidence in the social security program. Our report refers to certain statistical survey data that tend to confirm this. Because advocates of an independent agency for social security have argued that a change of organizational form would improve public confidence in the social security programs, we sought to weigh the possible effects of various organizational changes on public perceptions. We concluded that confidence depends primarily on the fundamental financial soundness of the programs and on the public's perception that changes in the programs are made with due regard for both their immediate and long-term effect on the benefit structure.

Nevertheless, we concluded that organizational arrangements are significant and do affect how policy is made and the efficiency and effectiveness of program management. Therefore, Mr. Chairman, consistent with our legislative mandate, we concentrated on developing an organizational plan for an independent agency which would provide an appropriate policy formulation process as well as strengthened management capabilities. If the Congress decides to create an independent agency, we believe our recommendations could lead to an efficiently and effectively managed agency—one which could, assuming continued strength in the program's financing, help to improve the public's view of the agency and the programs.

POLICYMAKING AND ADMINISTRATION FOR SOCIAL SECURITY

In considering a plan for an independent agency, one difficult issue we faced concerned the policy formulation process. The Social Security Amendments of 1983, which authorized the Panel's study, directed us to consider the possibility of establishing a bipartisan board with executive authority for the agency. According to those who testified in support of such a board, its primary advantage would be to create a forum for balanced deliberation of policy proposals, ensuring that full consideration be given to the effect of policy changes on current beneficiaries, those nearing retirement age, the working population, the disabled, and even the young and others who are or may be dependent on the program in the distant future. The Panel believes that this policy perspective is essential for the OASDI programs; the President and the Congress must have objective and comprehensive analyses of the full range of policy options in the legislative decisionmaking process. Thus one of the centerpieces of the Panel's plan for an independent agency is a recommendation to establish a permanent, bipartisan advisory board with six year overlapping terms, to institutionalize the role now filled intermittently by advisory councils and ad hoc national commissions. With the diverse, distinguished membership and strong charter that we propose, we believe that both the President and the Congress could be assured that policy advice and analysis from the agency is balanced, comprehensive, and far-sighted.

The Panel does not believe, however, that it would be appropriate for the Board to have command authority over the agency as a whole. Strong management of very large and complex organizations requires the concentration of responsibility and au-

thority in a chief executive—a single official capable, ideally, of providing energetic and decisive leadership.

While few would dissent from this principle of administrative organization, differences of opinion do arise over how best to organize executive policy formation, which in our government includes both the preparation of proposals for congressional action and the exercise of executive discretion in interpreting legislative intent.

Whereas good management in our judgment requires considerable autonomy—that is, the concentration of power in a responsible official—good policymaking requires the blending of competing views and the balancing of different perspectives on policy questions. Only to a limited extent can this balancing and blending take place within a single executive agency—the social security agency in this case. It is necessarily a far more inclusive process, engaging the President and Congress, who, by reason of having won elections, are responsible for making the most important decisions about public policy.

It should be a responsibility of the agency head to develop and preserve the capacity of the social security agency to contribute to policymaking with advice, information, expert analysis, and the kind of judgment that is informed by the experience of program operations. Along with the ability to recall experience—what is often called institutional memory—and a greater capacity to look beyond the immediate future than that possessed by elected officials, who must be mindful of upcoming elections, these are the distinctive contributions that administrative agencies make to policy. The organization and leadership of the social security agency should, in the Panel's judgment, be designed to make these contributions to the President and Congress as promptly and vigorously as possible. We believe that an organization headed by a single executive is likely to fix responsibility for policy advice. It would provide expert information, practical judgments, and a long-range view on policy questions more expeditiously and clearly than would a multimember deliberative body, which would be vulnerable to indecision, dissension, and diffusion of responsibility.

A form of organization designed for deliberation, representation, and adjustment of different viewpoints, as a multimember board would be, is appropriate to head an agency which has received an extraordinary delegation of broad adjudicatory and rulemaking power. The leading examples are the Tennessee Valley Authority, a public corporation created in 1933 to develop the Tennessee Valley, and the various independent regulatory commissions, which have broad powers to make and interpret rules—in effect, to act on behalf of the legislature and the executive—in their respective areas of jurisdiction. Congress, however, has made no comparably broad delegation to SSA. In our judgment, only if such a delegation were made, in effect substantially devolving legislative powers for policymaking, would a multimember board be logical and defensible as a policymaking form.

As a form for administration, we believe that a multimember board has serious disadvantages in that authority is diffused, and policy and administrative roles can be confused. The assumption that the board would confine itself to policymaking and leave administration to a chief executive officer assumes incorrectly that the two spheres of activity can be clearly differentiated in practice, and it overlooks or unwisely discounts the danger that the chairman of the board and possibly other board members would involve themselves in administrative matters properly the responsibility of the chief executive officer. The social security program, urgently in need of strong direction, should not today be exposed to the risks of this kind of contention between board members and the executive over who will be in charge. Such contention could exacerbate and prolong precisely those administrative problems that a reorganization should be designed to prevent.

Finally, the preeminent position of the chairman of a board would tend to diminish by comparison the stature of the chief executive and make it more difficult to attract the type of strong and capable administrator necessary to resolve the agency's serious management problems.

Therefore, Mr. Chairman, we recommend that an independent social security agency be headed by a single administrator in whom authority would be clearly and firmly lodged. At the same time, the Panel recommends establishment of a permanent, bipartisan advisory board with a strong, affirmative charter to ensure that the Administrator, the President and the Congress receive the best possible advice about policy changes in the social security programs and about the level of public service for beneficiaries. A board, structured as we propose, would help to protect the Administrator from partisan political pressures.

Mr. Chairman, we place great importance on these recommendations if an independent agency is created. To resolve SSA's current and impending operational problems a strong administrator is vital; on the other hand, an advisory board

would be necessary, in the case of an independent agency, to provide an appropriate policymaking apparatus that could assure decisionmakers and the public that policy is being made in an evenhanded, bipartisan manner. We recommend that the advisory board consist of nine members, no more than five of whom could be of the same political party. The President would appoint five members (no more than three of whom could be from the same political party), and to encourage bipartisanship and provide for congressional participation, the President of the Senate Pro Tempore would appoint two members (one from each party) and the Speaker of the House of Representatives would appoint two members (one from each party). All board members would be confirmed by the Senate. The President would designate the chairman, and board members would serve six year, staggered terms. Meetings of the board would be held at least bi-monthly.

We believe this advisory board would accomplish many of the objectives advanced by supporters of a full-time, executive board. In particular, the advisory board would:

Carry forward the important symbolism of bipartisanship that was conspicuously successful in the work of the National Commission on Social Security Reform;

Help to produce a more deliberative decisionmaking process;

Institutionalize the quadrennial advisory councils and minimize the need for ad hoc commissions; and

Become an important repository of institutional memory.

Specific functions of the advisory board would be to:

Make an independent assessment of the annual Report of the Board of Trustees and report to the President and the Congress;

Engage in public dialogue and education about social security;

Suggest to the President names to consider in selecting his nominee for Administrator;

Review and assess major legislative proposals regarding social security, including an assessment of the administrative feasibility and consequences of those proposals;

Review and assess the quality of service that the agency provides to the public;

Make an annual assessment of the progress in upgrading the agency's computer-based technology;

Review and assess the agency's progress in developing needed management improvements; and

In consultation with the Administrator, review the development and implementation of a long-range research and evaluation plan for the agency.

As you can see, the Advisory Board would have a detailed and important role to play in an independent social security agency. With distinguished and accomplished members, this Board would complement the strong administrator who must make as his or her first priority the resolution of SSA's operating problems.

OPERATING ISSUES

Our Report discusses in some detail the administrative issues now facing the Social Security Administration. For the sake of brevity, and because I know that this committee is fully aware of the extent and scope of those issues, I will not catalogue them here. The Panel was struck by the severity of those problems, particularly the pervasive effect of SAA's inability to take full advantage of modern computer technology and the serious internal management issues that the agency will have to face when it is able to modernize its systems and procedures.

The causes of SSA's administrative difficulties are myriad. It seemed clear to the Panel that frequent turnover of top leadership, repeated reorganizations, and continuous amendment of the Social Security Act, when coupled with inadequate systems support and restrictive controls imposed by the central management agencies of the executive branch, all played a part. Our recommendations address these causes.

But it should be noted, Mr. Chairman, that not only do some of SSA's management challenges result from circumstances beyond its direct control, but also that the agency and its employees do an admirable job under less than ideal conditions. On a cursory reading, our report may appear to be critical of the agency's shortcomings, but it is important to remember that in the vast majority of cases, SSA sends the right check to the right person in the right amount at the beginning of every month. It can and should do better; its employees very much want to do a better job; and we believe our recommendations for strengthening the management of the social security agency would promote operational excellence.

The frist step in that process is to build stability and professionalism in the agency. Thus the Panel recommends that the Administrator be selected on the basis

of demonstrated competence as an administrator, that the position be elevated to executive level II to attract the most qualified candidates and to provide status comparable to other independent agencies of the government, and that the administrator be appointed for a term of four years, coinciding with the term of the President. While the first two points are fairly obvious, the four year term is intended to create the expectation that nominees will, upon accepting the position, make an implicit commitment to stay at least through the term of the President. In other words, the position of social security administrator should be a goal to be sought by the most qualified and experienced individuals. On the other hand, the Panel does not believe that a term exceeding that of the President would be appropriate since the administrator will speak for the President on social security and must have the President's full confidence.

MANAGEMENT AUTHORITIES

As I mentioned before, Mr. Chairman, many of SSA's current mangement problems are caused by—or at least exacerbated by—circumstances beyond the agency's direct control. One of those factors is the tendency of the central management agencies of the Federal government, particularly the General Services Administration, the Office of Personnel Management and the Office of Management and Budget, to over-regulate and over-control the operating agencies of the Federal establishment.

The Panel was impressed by a recent report by the National Academy of Public Administration, entitled "Revitalizing Federal Management: Managers and Their Overburdened Systems," which described the effect of government-wide over-regulation. In addition, the Grace Commission report pointed out that many agencies, SSA in particular, are fully capable of managing their administrative services without unnecessary and duplicative oversight by control agencies. We asked the National Academy to assess changes in management authorities which could improve SSA's capacity to manage effectively, using as a basis their report on "Revitalizing Federal Management." The National Academy's report is included in the Appendix to our Report.

To improve the Administrator's ability to manage the new social security agency and to achieve—and be held accountable for—results, the Panel recommends that the following managment authorities be delegated to the extent now permitted by law:

Information resource management and automated data processing planning and acquisition authority,

Authority to acquire, operate and maintain the facilities to operate the social security programs,

Personnel management authority to establish its own recruitment and examination program for entry level employees and to establish its own classification system for those job categories identified by the Administrator as unique and/or critical to agency operations.

In addition, Mr. Chairman, the Panel recommends that the new agency be authorized to have a pool of executive level positions and a number of additional Senior Executive Service positions, and that a number of positions be authorized that are exempted from current pay levels for computer and actuarial employees.

The purpose of the delegations is to balance authority and responsibility in the hands of the Administrator. We cannot expect the Administrator to be responsible for program performance unless we provide the tools to achieve superior performance.

The budget process consumes time and energy of all Federal Administrators. One of the National Academy's central findings is that the budget process for many agencies is unnecessarily burdensome in the paperwork it requires and the demands it places on top management's time and attention. For stable agencies like the SSA, an annual budget review produces very little at very high cost compared to less frequent budgeting. Thus the Panel recommends that the social security agency be authorized to present a biennial budget request to the President and the Congress.

The budget process can not only be burdensome, it can also be counterproductive when it is misdirected. The Panel strongly agrees with the National Academy that agencies with workload-based administrative budgets should be required to submit workforce plans to the President and the Congress, and that once that plan is approved, agency management should be free to implement it without the imposition of arbitrary ceiling restraints. Thus the Panel recommends that SSA be required to submit such a workforce plan and that its administrative budget be based on dollar limitations rather than personnel ceiling controls. Such a plan would prevent, we believe, the kind of situation that SSA now finds itself in—with overtime in key op-

erating centers now exceeding 10 percent. While actions pending in those centers exceed the normal pending workload by one million items, work years in the field have been cut in 1984 and 1985 even though field claims and inquiry workloads will increase dramatically. For example, Mr. Chairman, SSA will mail statements to over 40 milion beneficiaries in January 1985 in accordance with the taxation of benefits provision in the 1983 amendments; no matter how carefully these statements are phrased, the SSA expects them to generate an enormous public response.

PROGRAMS INCLUDED IN AN INDEPENDENT AGENCY

When the Panel began its deliberations, Mr. Chairman, we fully expected that one of the most difficult questions we would have to answer would be, what programs should the new agency administer? In fact, we reached a consensus rather quickly. We recommend that the new agency have responsibility only for the Old Age, Survivors, and Disability Insurance and the Supplemental Security Income Programs. Other programs that SSA now administers—Aid to Families with Dependent Children, Child Support Enforcement, Low Income Energy Assistance, and Refugee Resettlement—should remain in the Department of Health and Human Services with other social service programs, or in the case of the Black Lung program, in the Department of Labor. In addition, no other programs now outside SSA's jurisdiction, including the medicare and medicaid programs, should be transferred to an independent social security agency. This recommendation is based on two basic findings. First, the OASDI and SSI programs constitute an enormous administrative challenge in and of themselves, and require the full time and attention of a strong administrator. Second, the other programs are more appropriately placed in HHS. In the case of AFDC, Child Support, Low Income Energy Assistance, and Refugee Resettlement, HHS has responsibility for the related social service programs, and keeping these programs in HHS would provide state agencies with a central focus to resolve policy and administrative issues. In the case of Black Lung, the Department of Labor now has responsibility for the ongoing program; SSA is only responsibile for those beneficiaries who came on the rolls prior to 1974. This recommendation may need to be phased in to give DOL time to establish or arrange for field services.

In the case of medicare and medicaid, the Panel heard testimony in favor of reuniting medicare with social security in order to improve beneficiary service and locate these social insurance payroll tax financed programs in a single agency. SSA now provides certain administrative support services to the Health Care Financing Administration (HCFA); medicare applications are taken in SSA's field offices, and SSA provides beneficiary information and data to HCFA from its computer system. Because beneficiaries apply for medicare in SSA's field offices, many return to SSA with questions on reimbursement, coverage, and the like, but SSA's field employees are not in a position to respond to many of these questions and must refer the beneficiary to medicare intermediaries. The Panel was advised that beneficiary service might be improved if SSA was responsible for the program and field employees were better trained in medicare policy and procedures.

We recognized merit in these arguments, but decided on balance that it would be a mistake to place medicare (and medicaid, for the two are inextricably linked) in the social security agency. Such a combination would be detrimental both to the new social security agency and to HCFA and DHHS as well. There is no doubt, Mr. Chairman, that national health care policy will be one of the most difficult and pressing social issues in the decade ahead. Resolving these issues will not only require the full time and attention of program managers, it will also require careful coordination among all Federal health care policy-makers. Removing medicare and medicaid from the Department of Health and Human Services would make health policy coordination much more difficult, and would be enormously disruptive to both the new agnecy and to the medicare program itself. Therefore, Mr. Chairman, we recommend that medicare and medicaid remain in the Department of HHS with other Federal health programs.

Mr. Chairman, this completes my opening statement. We would be happy to answer your questions.

Chairman PICKLE. We will be glad to hear any additional statements from Dr. Derthick or from you, Mr. Hess.

Ms. DERTHICK. I have no separate statement to submit. As the chairman has said, our report was unanimous, and I would like to associate myself with the report and with the testimony of our

chairman. It was a privilege to work with him. If the committee has any questions to address to us as a group or to me individually, I would be happy to attempt to respond.

Chairman PICKLE. Dr. Derthick, as I understood it—you said you have a statement——

Ms. DERTHICK. I do not.

Chairman PICKLE. Fine. Mr. Hess.

Mr. HESS. Mr. Chairman, I also have not prepared a separate statement. I just want to associate myself with Mr. Staats' testimony and our report. I do feel that this is a timely and exceedingly important topic. It is essential that the administration of the Social Security Programs have a stronger organizational base and greater independence of authority to achieve better public service, and also to assure greater accountability and visibility in the execution of policy.

It must be more than just an accident that for more than a decade the leadership of this agency has languished and its structure has not been adequate to meet the challenge of the times. I will be pleased to respond to any questions your committee may have.

Chairman PICKLE. We thank you, and we thank all three of the witnesses. We have a few questions. I think first I ought to make plain to the committee that as I understand it you would appoint a board, an advisory board, for a 6-year period of time, but that the President, in addition, would appoint the commissioner or the chief executive officer or the C.O., whatever you would call it.

That individual then would run Social Security as an independent agency, but would rely on the advisory board for counsel and for recommendations, in an even-handed bipartisan manner, but basically one individual would be empowered to administer that office through the President in cooperation with his advisory board. Is that essentially the approach you would take?

Mr. STAATS. Perhaps I could elaborate a bit, Mr. Chairman, on that. As you pointed out in your opening statement, this is a very large and complex program. It has a budget of about $200 billion. It employs 80,000-some employees. It has 1,300 field offices throughout the country. It has regional offices. It is a very major operating program, and the more we looked at this from the point of view of the alternative of a board as against a single administrator, and as we received testimony from large numbers of people, we concluded that a program of this complexity and magnitude simply would not work, if it were administered by a board.

I can't think of any corporation in this country that would try to run an operation with a board. I couldn't conceive of running the Veterans' Administration with a board. We couldn't find any good model. The TVA was looked at. In my years at the Budget Bureau, I handled the budget for the TVA for approximately 15 years, and I know the problems that existed there in terms of defining the relationship between the general manager and the board members.

We don't believe that you can separate policy from administration, from management, in the way that the people who argue for a board think it could be done. Human beings just don't operate that way. If you have a full-time board, those full-time members are going to be involved in personnel matters, and they are going to be

involved in a lot of things which you and I would agree come under the heading of management.

I referred to a history that was prepared of the Social Security Program back in the thirties, and it is replete with examples where the board members got involved in selection of personnel down to the lowest possible level, what they call professional level 2, which at that time paid $2,600. In the selection of regional managers, they got themselves involved in management and administration problems to the point where the executive director simply didn't know what his job was, and so indicated.

I just don't believe, to make my point doubly clear again, I just don't think it would work.

Chairman PICKLE. You said on page 5 of your statement that your board concentrated on developing an organization plan for an independent agency which would provide an appropriate policy formation process as well as strengthening management capability.

I am trying to get a clear picture of the meaning of that statement. I see you want a strong management, but you are also saying that the advisory committee also would help establish policy? Would they be making relations or would they have any authority at all?

Mr. STAATS. I think we start with the proposition that the President is accountable to the Congress and the American people for the way this program is carried out, as he is on other programs, and the idea here would be to fix that responsibility clearly in the President.

He would appoint the Administrator and it would be for a 4-year term, which would be coterminus with his own.

The advisory board, we believe, would be helpful in that it would be a continuing body. It would be in a position to comment on the trustee's report. It would be asked to do that. It would be able to initiate studies of its own, instead of waiting for an ad hoc group to come along after a crisis arose, but we think importantly from the point of view of those who are concerned about the politicization of the program, we believe that a bipartisan board, if it has recommended a panel of names to the President for his consideration, the chances are that the President would not depart from that list.

We do not think that is very likely to happen. You cannot bind the President, of course, under the Constitution, but I think it would be a strong deterrent for him to go beyond the names listed on that panel.

Chairman PICKLE. The Executive Officer would be appointed by the President and his term would be coterminus with the President's term.

Mr. STAATS. That is right. We see this not only as helping to provide some continuity, but in other positions in the Government where that is done, the burden of proof is on removal of that person during periods short of 4 years; we believe that for both those reasons it is appropriate to suggest a term of office, whereas in most cases, as you know, there is no term of office.

A person holds office at the pleasure of the President, but we believe in this case, and there are precedents for this, that a term of office specified in the statute, particularly where the statute pro-

vides the qualifications of such an individual, would be a strong deterrent for the President to remove that person short of 4 years.

He would, of course, be eligible for reappointment. If the working relationship is good, he does a good job, then he could be reappointed, but we do not see how you can hold the President responsible for the program and accountable for it, and at the same time provide for a longer term of office than that of his own.

Chairman PICKLE. Mr. Staats, you make a good case for the need for an appropriate policymaking apparatus that would assure the decisionmakers and the public that the policy is fair and even-handed. Would you care to tell me what you think we ought to do to achieve that goal if we didn't establish an independent agency?

Do we need to make corrections whether or not we go to an independent agency approach?

Mr. STAATS. We anticipated this question. We debated, I should say, at some length whether we should make such a suggestion, but the longer we thought about it, the more we felt that it was incumbent on us to at least specify which parts of our recommendations we would propose to Congress in the event the decision was to leave SSA as a part of the department.

We concluded in chapter V of our report that an advisory board should be established, as we have indicated in our report, but reporting to the Secretary rather than to the Administrator.

We believe that the level of the pay and the status of this administrator should be increased. We believe that the Administrator should have more top level personnel.

For some reason the SSA has been discriminated against in relationship to other agencies in the number of senior executive service level people that can be hired in that agency. We believe that the kind of flexibility which we have recommended in terms of space and hiring of personnel, in terms of acquisition of computers, all these things should be done even if you left the agency in the Department.

Chairman PICKLE. Mr. Staats, if you were to remove the Social Security Administration from the Department of HHS, and you reestablished it as an independent agency, would you envision that kind of an operation as interfering with the right and prerogative of the——

Mr. STAATS. Sorry—I didn't hear the last part of that.

Chairman PICKLE. Would you view that as a means of perhaps interfering with the Congress' right to establish policies of retirement income, security, and other matters?

In other words, if you have an advisory board and a strong administrator, would that interfere with the way Congress would be charged with the overall policies?

Mr. STAATS. Mr. Chairman, it would help in several respects, and I would like to ask my colleagues to add to what I say here. It would help in several respects. One is that the Congress would have the right to name four of the nine members of the advisory board.

Second is that the advisory board would be called upon by the Congress, could be called upon, to prepare studies, instead of waiting for an ad hoc commission to be created.

It would be available for testimony. It would, I think, provide the Congress with a lot better oversight of this program than exists today.

Mr. HESS. Mr. Chairman, might I add?

Chairman PICKLE. Yes, Mr. Hess.

Mr. HESS. I don't think there is anything involved in a plan to create stronger authority for Social Security either as an independent agency or otherwise, and with a strong advisory board, that denigrates the responsibilities and the authorities of the congressional committees, both the substantive committees and the oversight committees. This does not address at all the historic constitutional relationship between the Congress and the administrative bodies.

Chairman PICKLE. I don't think the Congress is going to be bashful and give up any of its prerogatives if we were to go to an independent agency. We just would want to be sure that we don't have two groups kind of vying in the field.

Mr. STAATS. I think the real question is whether or not Congress would be better off with the arrangement we have suggested as against what it is today and I think it would be better off.

Chairman PICKLE. I can understand that. Some people have suggested that it might be too much of a burden for a single administrator of an independent agency like Social Security——

Mr. STAATS. If I can interrupt to add one more point, I would think from the point of view of accountability to the Congress that a board would not be a very satisfactory arrangement because who are you going to hold responsible? How do you know whether there hasn't been compromising that took place before the board appeared for testimony, for example?

I just think that it runs against the grain of accountability to the Congress to have a board instead of a single administrator.

Chairman PICKLE. My question more specifically is, would we be giving one person too much authority, if he would be the administrator, to make both policy questions and administration questions at the same time to some extent? You don't think that would be empowering him with too much authority?

Mr. STAATS. No, sir, I don't. Of course, the board would be available for testimony. It would have its own independent views.

Chairman PICKLE. Let me ask one other question. It would be for all of you, because I am interested in your responses. I know that the act we passed in 1983 gave you a clear mandate to tell us how you would implement a plan that would make Social Security an independent agency. That was your charge from us.

Now you have made a recommendation in general how it would work, if you had an agency, but you made it plain at the beginning of your statement that you were neither recommending it nor opposing it, that wasn't your specific recommendation, but you were just carrying out the order of the Congress.

I accept that, because that was the charge we gave to you, but my question now is to ask you, would you be willing to give us your personal opinion on whether it is a good idea to make SSA independent, not what we ordered you or told you to do, but what do you think about it? Should we?

Mr. STAATS. If it were my decision to make, I would take it out of the department on the basis we have recommended.

Chairman PICKLE. And set up an independent agency?

Mr. STAATS. I would set it up as an independent agency, take it out of the Department of Health and Human Services. It would still be one of the largest operating programs in the Federal Government once you have taken it out. I think that the program has not been given the status and given the attention that it needs, either within the Department or by the Executive Office of the President.

We recount at great length in our report the problems and difficulties of the Social Security Administration over the last 10 or 12 years particularly.

I think a program of this magnitude, one that touches so many people in such a sensitive way, in my opinion deserves a separate agency status in much the same way we have a separate agency for the Veterans' Administration.

I don't think that denigrates anything from the HHS. It would still be left with a huge program as all of us are aware. In looking ahead, the health care problem in this country is far from resolved.

I believe that full time, almost full time and attention of the Secretary of HHS is probably going to be required to deal with that issue.

Chairman PICKLE. I thank you very much.

Mr. Conable, do you have any questions you want to ask the panel?

Mr. CONABLE. Yes, I do. Thank you, Mr. Chairman.

Mr. Staats, welcome before our committee. You have been here many times.

Chairman PICKLE. Before you proceed with that, I asked a question and didn't give a chance to the two other panlists.

Do you agree generally with Mr. Staats on that question? Do you recommend that you have an agency, regardless of what the Congress mandated and asked you to report, do you think we should or shouldn't have an independent agency?

Mr. HESS. Mr. Chairman, I have already intimated in my initial remarks I think it is timely and important that the independence of the Social Security Program be firmly established as an organization.

I would think the best way to do this is to take it out of the Department and make it independent. I think it is essential to get out of the hierarchy and the layering of HHS, but I think it is also essential to assure added delegations in the fields of budget, personnel, and space management. I personally doubt that the necessary structural and other delegations to SSA would ever occur without congressional action and, certainly, even if there were this other alternative attempt to set SSA up in a more independent stature within HHS, one would have to have congressional direction to pass those delegations through or else you would still have the layering at the Secretary's level. My personal experience has been for many years in the program that the present setup is excessively cumbersome.

Chairman PICKLE. Dr. Derthick.

Ms. DERTHICK. I am somewhat less persuaded than my panel colleagues that there is a strong case for making the agency independent. I think it does have serious administrative problems. I haven't seen persuasive evidence that those problems derive mainly from supervision or intervention from departmental sources.

I listened to our witnesses, and I have also read a number of the oversight hearings before this committee and other committees of the Congress, and I find very few references to the Department, to departmental intervention or supervision that seemed to impute blame to it for many of the problems that the agency has encountered.

I am a little wary, I think, of establishing independent agencies in principle. It means that they are in theory responsible to the President, but we all know that the President is too busy personally to supervise them. That means they are responsible to OMB. OMB, with all due respect, is, in my view, not well equipped to exercise policy supervision. I think when it tries to exercise policy supervision, often the results are poor, are bad or unfortunate for policy and also for OMB.

While I have an open mind on this question, I would want to see stronger and more powerful arguments than I have seen, and more persuasive evidence than I have seen, that the change would improve the performance of the SSA.

I think the basic problem that our administrative agencies encounter, and I am sure you have heard this before, is with laws that are extremely complex and ever-changing. I think that is the root cause of many of the administrative problems—the nature of the law rather than the nature of administrative structure.

Mr. CONABLE. Mr. Chairman.

Chairman PICKLE. Mr. Conable.

Mr. CONABLE. Dr. Derthick, you refer to the root causes of the problems and so forth. I notice you had 53 expert witnesses that appeared before the panel. Did you talk to a good many of the employees of the Social Security Administration?

Mr. HESS. We talked to employee reresentatives. We heard employee representatives. Formally, we didn't talk to individual employees, although we all had feedback from persons we know in the agency.

Mr. STAATS. We talked with employee organizations, and we particularly sought the views of the branch managers, representatives of the Association of the Branch Managers. There are 1,300 branch managers.

Chairman PICKLE. Were there allegations of bad morale in the Social Security Administration?

Mr. STAATS. They gave every indication of serious problems.

Chairman PICKLE. And what were the major problems? I know in the Carter administration there had been three administrators in one 4-year period, which obviously is destructive, but was that the sort of thing that constituted the major complaint?

Mr. STAATS. The major complaint, as I recall it—and we have the text of the summary of their statement which we can put in the record, I think it might be helpful—was that they were called upon to carry out the responsibility at the field level, but had very little

discretion with respect to managing their offices—space and personnel, for example.

Between now and the first of the year, they have to issue 40 million of the 1099's and at the same time their personnel has been cut, and the question is, how can they do it?

This is the kind of thing that they are running into. They have a hard time getting space convenient for the public. These are the kinds of things we found.

Mr. CONABLE. Is there any reason to believe if they were an independent agency Congress wouldn't continue to dump responsibilities on it without giving the agency the personnel tc handle it or the modern equipment to administer it?

Mr. STAATS. I would offer my judgment that it would help a great deal if they had an administrative agency head who could fight those battles for them. Who is fighting for them now?

Mr. CONABLE. Let me ask you this: There has been an allegation made because they are down the line, operating in Baltimore, for instance, that they are something of a stepchild of the Department of HHS and that when personnel directives come from OMB or the White House or wherever such personnel directives come from, that there is a tendency to pass them on down the line and to take a big hunk out of Social Security simply because it is not there to defend itself.

Was there any of that kind of talk?

Mr. STAATS. Yes, a great deal of evidence of that.

Mr. CONABLE. There is evidence of that? In other words, that the tendency is for the administrators in HHS to protect themselves here near the site of power and to pass on the liabilities that go with changing policies of this sort down the line to those out-of-town folks who are not directly represented?

Mr. STAATS. Let me give you an example. The Department is given an allocation of personnel department-wide. That is under the ceiling that OMB establishes, but is parceled out by HHS, at least in the opinion of the SSA people we talked to, they got the short end of the stick.

I mentioned the top personnel and I don't find any reason why this should exist. The SSA has only 76 SES positions, senior executive service positions. The IRS has 235. EPA has 233.

NASA has 500. VA has over 400.

Now, this just doesn't happen with somebody giving full time and attention to the operation, the top management of that organization, I can assure you.

Mr. CONABLE. In short, one conclusion you came to was that the Secretary traditionally has not fought for the administrator and the administration of the Social Security system to the extent that an independent head could. Is that your view?

Mr. STAATS. That is the essence.

Mr. CONABLE. Now, what about the possibility that the head, the director of SSA chosen by the board might have less relevance to a president and to an OMB than a political appointee, and might therefore be for that reason dealt with somewhat more harshly than one of our own, so to speak?

Mr. STAATS. I don't think——

Mr. CONABLE. Whatever the administration.

Mr. STAATS. I don't think there is an iron clad guarantee that everything would go 100 percent smoothly under either of these arrangements. What you have to decide is which of these gives you the greatest possibility of improvement in the situation that we have today?

Mr. CONABLE. I guess what I am asking is, given the loss of the Secretary of Health and Human Services cabinet representation for the Social Security Administration, how you see the Administrator relating to the President.

Do you think he will have better access than he does now?

Mr. STAATS. He doesn't have any access today.

Mr. CONABLE. He has access through the HHS Secretary, if the HHS Secretary sees fit to give it to him.

Mr. STAATS. I am not laying this at the personal door of any Secretary.

Mr. HESS. Mr. Conable, might I address another aspect?

Mr. CONABLE. Yes, please do. I am curious about this.

Mr. HESS. In answer to your question——

Mr. CONABLE. Incidentally, as you know, I was on the Commission on Social Security Reform and this is one of the recommendations of that group. Did you review the testiony before us? That was a time of great stress and obviously all the complaints fell out in the course of our deliberations.

I am sure you had access to those complaints also.

Mr. HESS. I am very familiar with that testimony and I want to say in answer to your conundrum as to how one could speak to a better allocation of resources when you don't have a cabinet member to speak for you: if there is no change in the stature and position and overriding authority of the control agencies, no change in the way they exercise their controls, it would be hard for any agency or any secretary to challenge Government-wide edicts. But we have recommended, and both our draft bill and the Roybal-Pryor bills have, delegations that are directed, for example, to assure that budgeting will be on the basis of work force planning, and not ceilings and full-time equivalence.

If such changes take place, then one has an assurance that there is at least a sound objective basis, founded upon workloads and service standards on which the agency can claim its share of the resources.

The other delegations we are recommending are not new under law. OPM and GSA have authority already to make those delegations if they want to, and they have made them to some other agencies, but they have not seen fit to make them to HHS or, if so, they are not passed through to Social Security.

Mr. STAATS. And again the question is, why not? Why have they given this option to other agencies but not to SSA, with all the problems which have been identified in SSA for many years?

Again I would say somebody has not been doing their job.

Mr. CONABLE. I take it from your comments also, Elmer, that it was your conclusion, the conclusion of the panel in any event, that it would be unconstitutional to restrict the President's selection to the nominees suggested by the board for the directorship, is that correct?

Mr. STAATS. That is correct.

Mr. CONABLE. The President has to have the right to appoint whom he wishes, but you feel there would be a moral suasion in requiring the board to make recommendations.

Mr. STAATS. I feel that if the board appointed by the President, a bipartisan board, made up of individuals who are there because of their designation by Congress as well as the President, agrees upon a list say of three to five names, of having the qualifications which we have suggested in our draft bill, that it would probably be very persuasive to the President to select from that panel.

This, as you know, is the way that the Comptroller General is selected today.

Mr. CONABLE. Thank you, Mr. Chairman.

Thank you for your answers. I appreciate the work you folks have done.

Chairman PICKLE. Would your recommendation take the Social Security Administration out from under the unified budget, or would it stay under the unified budget?

Mr. STAATS. We did not deal with that question because, under the present law, it comes out of the budget in 1993. We did not deal with this at all.

Chairman PICKLE. You didn't touch on that?

Mr. STAATS. We did not touch upon it.

Chairman PICKLE. In the absence of that, if we went to an independent agency such as you recommended, it would still be under the unified budget?

Mr. STAATS. Unless the law is changed, it is taken out of the unified budget in 1993.

Chairman PICKLE. I thank you. We have many questions we would like to ask you, but we want to advance this hearing and get as much testimony on record as we can. We will be submitting to you individual questions, Mr. Staats, for you and the panel if you will respond to them in quick order.

Mr. STAATS. I will be very happy to.

Chairman PICKLE. We want to have additional hearings on this subject. Thank you very much.

Mr. STAATS. Thank you again, Mr. Chairman, for the cooperation that the committee has given us.

Chairman PICKLE. Thank you.

Now, the Chair will ask the representative of the General Accounting Office if he will come forward. Mr. Richard L. Fogel.

Mr. Staats, we would be pleased if you and the panelists would stay around. They might want to ask some questions of you if you have the time.

Mr. STAATS. I have to catch a plane, but my colleagues may be willing to stay.

Chairman PICKLE. The committee will be glad to hear from Mr. Richard Fogel, who is Director of Human Resources Division of the General Accounting Office.

Do we have a statement from you, Mr. Fogel? I see we have a good statement here from you. Can you summarize this statement? How would you wish to proceed?

STATEMENT OF RICHARD L. FOGEL, DIRECTOR, HUMAN RESOURCES DIVISION, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY ANDREW F. KULANKO, GROUP DIRECTOR; ROLAND MILLER, SUPERVISORY EVALUATOR; AND ROBERT ROSENSTEEL, SUPERVISORY EVALUATOR, HUMAN RESOURCES DIVISION, GAO

Mr. FOGEL. If it is all right with the committee, we would like to have the statement submitted for the record and I will just briefly summarize it.

Chairman PICKLE. Without objection, it will be ordered.

Mr. FOGEL. I would just like to introduce my colleagues which are the team that has really been looking closely at the panel's recommendations and comparing that to the work that GAO has done over the past several years at Social Security.

Andy Kulanko is group director in the Human Resources Division and Roland Miller and Bob Rosensteel are staff members with our Social Security audit team.

Mr. CONABLE. Did you really look closely at Elmer's work?

Mr. FOGEL. Yes, we did, while he was chairman of the panel.

Essentially we agree with what the panel pointed out as key operational problems that Social Security has experienced over the last several years.

On the basis of our work at SSA over a number of years, we believe weaknesses in several key operational areas have contributed significantly to SSA's major problems. These involve outdated ADP equipment and software deficiencies, voluminous and poor quality instructions to field staff, frequent turnover and slow filling of key top level positions and frequent reorganizations.

Resolution of these problems has been made much more difficult because of the turnover in SSA's leadership. While there has been incessant change in the commissioners, but we would like to point out that since 1980 SSA has experienced an average yearly vacancy rate of 25 percent in its allocated SES positions.

Chairman PICKLE. Why do you think they have not filled those positions?

Mr. FOGEL. Part of it may be due to the constant turnover at the top of SSA, the four major reorganizations in the past 10 years, and it also may be due to the difficulty SSA has had attracting and retaining top-quality people. However, I think there is some initiative that SSA could be taking on its own in that regard to correct part of those problems.

Chairman PICKLE. Mr. Staats had made the same point. Go ahead.

Mr. FOGEL. Many of SSA's operational difficulties are a result of its internal problems, but some may have occurred because of the actions and policies of HHS, GSA, OPM, and OMB.

Specifically, HHS has imposed a hiring freeze which kept SSA from filling all of its authorized full-time permanent positions, and in addition, SSA has been subject to two other Government-wide hiring freezes imposed by the President over the past 5 years.

GSA has been slow in securing adequate space for SSA's field offices and while some progress has been made, our observations

during visits to SSA's field offices over the past year indicate that many of the space problems cited in the past persist.

SSA has experienced difficulty in hiring and retaining qualified field office personnel, partly due to OPM's inability to provide a list of qualified personnel. OPM has given SSA the authority to recruit college graduates as claims representatives, but people hired for those positions cannot progress beyond the entry level without taking a competitive exam.

SSA cannot go out and recruit college graduates and offer them a permanent job and we do not believe this is the most effective way to attract qualified people interested in a progressive career with SSA. I can't emphasize enough our belief that recruiting and retaining qualified people is essential to the success of the organization.

We believe the panel did an excellent job, given its mandate. It is clear that they were concerned with achieving some separation of the policy issues surrounding the Social Security Program from the management of the Social Security agency in trying to define the role of both the Administrator and the Social Security Advisory Board.

However, we are not confident that the panel's solution will achieve a key goal, the effective, efficient management of the SSA.

The dilemma we see with the panel's recommendation is that the Administrator of an independent agency must of necessity wear two hats.

The Administrator must be a good manager, but also will be looked to as the key spokesperson for policy issues relating to the Social Security Program, and experience suggests that regardless of how recommendations are made, the key criteria for selecting an individual for a top executive position will be the extent to which the person's views are compatible with the policy views of the President.

It may not be necessary to have an independent Social Security agency to achieve the dual goals of effectively managing the agency, as well as securing a more bipartisan development of Social Security policies. For example, the Social Security Administration's relationship with HHS could be developed along the lines of the current relationship between the IRS and the Treasury Department. In that relationship it is clear that the Commissioner of the Internal Revenue's primary responsibility is to effectively administer the tax laws. The Secretary of the Treasury and the Assistant Secretary for Tax Policy are the key officials responsible for developing tax policy initiatives and working with the Congress in that regard. Adoption of this model for Social Security would recognize that the primary role of the Administrator of Social Security should be the effective and efficient management of the agency. Policy initiatives would be focused in the immediate Office of the Secretary through possibly an Assistant Secretary who could have a title such as Assistant Secretary for Income Security Matters.

If Social Security, however, were to be an independent agency, we believe that political realities suggests that other alternatives be explored to assure the proper management focus within the agency. It is very difficult to expect that a single administrator can carry out both a policy and managerial role given the types of

management problems Social Security must solve. One alternative that might be considered is the statutory establishment of a Deputy Administrator for Management with a fixed term whose primary responsibility would be to focus on the management of the agency, thereby allowing the Administrator to focus more on the policy arena.

We believe the Administrator would be the key person accountable for both policy and the management of the agency, but there could be some delegation of authority to focus more on the management problems through this Deputy Administrator position.

Under either alternative, we still would support the establishment of a Social Security Advisory Board as recommended by the panel as an appropriate way to provide an institutional memory on policy issues as well as a way to give the administration and Congress an opportunity to receive bipartisan views on policy issues. Our concern with the Board, as recommended by the panel, however, is the nature of its relationship with the Administrator in areas dealing with the management of the Social Security agency.

It is important that the Social Security Administrator clearly have the responsibility and authority to develop and preserve the capability of the Social Security Administration to effectively carry out its operations. Accountability and oversight of the Administrator's managerial actions are already built into our governmental structure. In addition, internal to Social Security, a strong inspector general could provide the Administrator with independent analyses of the adequacy of management efforts within the agency. Thus, we believe the subcommittee should assess the need for a managerial oversight role of the Advisory Board in this context.

We do support the panel's recommendation that Social Security be headed by a single Administrator with a fixed term. We agree with the panel that strong leadership possessing authority commensurate with its responsibility is vital. Continuity of leadership is also essential. A 4-year renewable term should provide for improved continuity and stability.

More continuity is needed for the senior career policy management officials in SSA. We agree that raising the level of pay and status of the Administrator and key technical and executive staff should aid in attracting and retaining qualified people.

We agree that medicare and medicaid should not be included in the new Social Security agency. We support, in principle, the panel's recommendations that delegations of specific management authorities be given to an indepedent Social Security, but the central management agencies must exercise their policy development and oversight responsibilities effectively in such cases.

Moreover, these authorities should not be delegated until SSA has shown that it has the requisite management expertise to effectively carry out these responsibilities. For example, in the ADP area, Social Security already has a substantial responsibility for managing its own procurements, but has not demonstrated the capability to follow prescribed procedures and existing requirements to complete procurement actions.

While delegating authority for administrative services may improve SSA's ability to take care of its space needs, some of the difficulties established by GSA in acquiring, for example, space in

inner city areas will more than likely also be experienced by Social Security.

We support the panel's recommendation that SSA be allowed to submit its budget biennially due to the predictable nature of program administrative costs, SSI payments and general funds reimbursements to the trust funds. On the other hand, we also believe there is a need for close congressional review of proposed expenditures and are somewhat concerned that the OASDI trust fund will be placed outside the overall budget review process as early as fiscal year 1993.

We support the panel's recommendation that certain long-term projects, such as computer purchases, be funded for the life of the projects, but only after SSA's financial controls have been deemed to be adequate. While such funding may increase the likelihood that projects will be completed without interruptions once approved, there is no assurance that the Government will get what it pays for without good and reliable financial information and reporting on costs and performance.

We also support the panel's recommendation that SSA's request in its budget submissions be based on a work force plan rather than arbitrary personnel ceilings. This summarizes our statement, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF RICHARD L. FOGEL, DIRECTOR, HUMAN RESOURCES DIVISION, U.S. GENERAL ACCOUNTING OFFICE

Mr. Chairman and members of the subcommittee, I am pleased to present our views on the report of the Congressional Panel on Social Security Organization. As the Subcommittee requested, we shall cite some of the key SSA operational problems our work had identified over the years and address the extent to which these problems appear to have been caused by SSA or by others. I shall also offer GAO's views on the Panel's recommendations.

KEY OPERATIONAL PROBLEMS AND THEIR CAUSES

SSA's primary mission is to make accurate and timely payments to eligible beneficiaries in the most efficient manner. During the past 10 years, SSA has had problems in meeting these objectives. For example, SSA has experienced significant delays in posting workers' earnings and is two to three years behind in recomputing and paying the higher benefit amounts due to about 2 million beneficiaries who have continued to work after retirement. Although most of SSA's information processing is automated, the volume of competing demands for ADP systems' resources (such as new legislative changes, benefit recomputations, claims processing, and post-entitlement changes to accounts) has caused SSA to increase its reliance on manual processing which is more time consuming, costly, and error prone.

The public has complained that repeated visits or inquiries to local SSA offices are sometimes necessary to satisfy requests for information. Some local offices have long waiting lines, poor phone service, and delays in claims processing. Some SSA notices and letters are late and hard to read. The public is not always adequately informed of their rights and responsibilities under the SSA programs.

On the basis of our work at SSA over a number of years, we believe weaknesses in several key operational areas have contributed significantly to SSA's major problems. These involve (1) outdated ADP equipment and software deficiencies, (2) voluminous and poor quality instructions to field staff, (3) frequent turnover and slow filling of key top level positions, and (4) frequent reorganizations. The Panel report also recognized these areas as key problems and noted that, "Correction of widespread operational problems and planning for the future constitutes a major managerial challenge for the social security agency, whether it is made independent of DHHS or remains inside the Department."

SSA has been operating its ADP resources in a crisis-oriented, reactive mode leaving few ADP resources available to work on serious deficiencies in computer soft-

ware, inadequate hardware capacity, and systems personnel deficiencies. In addition, many of its complex data processing operations are being handled by labor intensive manual processes. Continuing legislative changes to social security programs accompanied by short implementation times have increased systems backlogs and perpetuated the need for manual processing of workloads which should be automated.

SSA's field office personnel have been inundated with policy and procedural instructions that are often unclear and sometimes incorrect, yet essential to day-to-day program administration.

Resolution of these problems has been made more difficult because of the turnover in SSA's leadership. Since 1973, SSA has had nine Commissioners or Acting Commissioners. Since late 1980, SSA has experienced an average yearly vacancy rate of about 25% in its allocated SES positions. SES separations since 1980 have ranged from 9% per year to 27% per year. The turnover in key top level career positions together with the incessant changes in Commissioners has caused a lack of institutional memory, expertise, and continuity in problem solving. It also may have contributed to poor employee morale and a lack of commitment to the initiatives and organizational goals of previous Commissioners and executive staffs.

During the past 10 years, SSA has had at least 4 major reorganizations. As a result, operations were frequently disrupted, knowledgeable officials left or were reassigned leaving knowledge gaps in certain operations, and accountability was obscured. SSA's ADP systems problems are, we believe, largely due to the lack of attention by top management and to constantly changing management priorities and strategies.

OTHER COMPONENTS ALSO AFFECT SSA

Many of SSA's operational difficulties are a result of internal problems. But some may have occurred because of the actions and policies of HHS, GSA, OPM and OMB. Over the past 5 years, HHS imposed one hiring freeze which kept SSA from filling all of its authorized full-time, permanent positions. In addition, SSA has been subject to two other government-wide hiring freezes imposed by the President during this same time period.

GSA has been slow in securing adequate space for social security field offices. In September 1981, the House Appropriations Subcommittee, in its report on the FY 1982 Labor/HHS Appropriations, requested the Administrator of GSA to delegate to HHS full authority to acquire, alter, and maintain leased space for SSA field offices. The GSA Administrator stated that rather than delegate leasing authority to SSA, GSA would take action to resolve SSA's outstanding requests.

While some progress has been made, our observations during visits to field offices over the past year indicate that many of the office space problems cited in the past (lack of privacy, crowded waiting areas, noisy and distractive environment, and inaccessibility for the handicapped) persist in some offices, and GSA delays in meeting SSA requirements continue. In September 1981, there were 451 outstanding requests from SSA to GSA for space. That was reduced to 295 in October 1982, but increased to 363 in September 1983 and was 353 in April 1984.

SSA has experienced difficulty in hiring and retaining qualified field office personnel partly due to OPM's inability to provide a list of qualified personnel from which SSA could recruit claims representatives. OPM has given SSA authority to recruit college graduates as claims representatives, but people hired for these positions cannot progress beyond the entry level without taking a competitive exam. Thus, while these employees may be able to become permanent employees, this is not the most effective way to attract qualified people interested in a progressive career with social security. I cannot emphasize too strongly our belief that recruiting and retaining quality people is essential to the success of the organization.

OPM did grant SSA the authority to design and conduct its own examinations and to directly hire qualified applicants for ADP positions. This improved SSA's ability to recruit ADP programmers, but not such ADP experts as computer scientists or systems analysts. We reported in May 1982 that SSA was still having difficulty attracting many highly technical experienced ADP personnel. The salaries SSA could pay these experts were substantially below those offered by private industry. While special provisions of existing federal law allow OPM to permit agencies to pay more competitive salaries to shortage categories of new ADP hires, OPM has been reluctant to grant such authority. SSA, on the other hand, did not ask OPM to grant it such authority.

VIEWS ON PANEL RECOMMENDATIONS

I would now like to turn to the Panel's recommendations. The Panel did an excellent job given its mandate. It is clear that the Panel was concerned with achieving some separation of the policy issues surrounding the social security program from the management of the social security agency in trying to define the role of both the Administrator and the social security advisory board. We are not confident, however, that the Panel's solution will achieve a key goal—the effective, efficient management of the Social Security Administration.

The dilemma we see with the Panel's recommendation is that the administrator of an independent agency must, of necessity, wear two hats. The Administrator must be a good manager, but also will be looked to as the key spokesperson for policy issues relating to the social security program. Experience suggests that the key criteria for selecting an individual for the administrator's position will be the extent to which the person's views are compatible with the policy views of the President.

It may not be necessary to have an independent social security agency to achieve the dual goals of effectively managing the agency as well as securing a more bipartisan development of social security policies. For example, the Social Security Administration's relationship with HHS could be developed along the lines of the current relationship between the IRS and the Treasury Department. In that relationship it is clear that the Commissioner of Internal Revenue's primary responsibility is to effectively administer the tax laws. The Secretary of the Treasury and the Assistant Secretary for Tax Policy are the key officials responsible for developing tax policy initiatives and working with the Congress in that regard. Adoption of this model for social security would explicitly recognize that the primary role of the Administrator of social security should be the effective and efficient management of the agency. Policy initiatives would be focused in the immediate office of the Secretary of HHS through possibly an Assistant Secretary for Income Security Matters.

If social security were to be an independent agency, we believe that political reality suggests that other alternatives be explored to assure the proper management focus within the agency. It is very difficult to expect that a single administrator can carry out both a policy and managerial role given the types of management problems social security must solve. One alternative that might be considered is the statutory establishment of a Deputy Administrator for Management with a fixed term whose primary responsibility would be to focus on the management of the agency, thereby allowing the Administrator to focus more on the policy arena.

Under either alternative we would still support the establishment of a social security advisory board, as recommended by the Panel, as an appropriate way to provide institutional memory on policy issues, as well as a way to give the Administration and Congress an opportunity to receive bipartisan views on policy issues. Our concern with the Board, as recommended by the Panel, is the nature of its relationship with the Administrator in areas dealing with the management of the social security agency.

It is important that the social security Administrator clearly have the responsibility and authority to develop and preserve the capability of the Social Security Administration to effectively carryout its operations. Accountability and oversight of the Administrator's managerial actions are built into our governmental structure. The President can exercise such accountability through the policy development and oversight roles of the central management agencies, as well as through the budgetary process carried out by OMB. The Congress can directly assure accountability through the legislative and appropriation processes. In addition, the GAO, as an independent arm of the Congress, can carry out reviews of how well social security is being managed.

Internal to social security, a strong Inspector General could provide the Administrator with independent analyses of the adequacy of management efforts within the agency.

Thus, we believe the Subcommittee should assess the need for a managerial oversight role of the advisory board in the context of the information and processes already available to assure oversight and the need to not impair the authority of the Administrator.

In any case, we support the Panel's recommendation that SSA be headed by a single Administrator with a fixed term. We agree with the Panel that strong leadership possessing authority commensurate with its responsibility is vital. Continuity of leadership is also essential. A 4-year renewable term, as recommended by the Panel, should provide for improved continuity and stability of SSA's leadership. More continuity is needed for the senior career policy and management officials.

We agree with the Panel that raising the level of pay and status of the SSA Administrator and key technical and executive staff should aid in attracting and retaining quality people. However, we recognize that even the levels of pay suggested by the Panel may not be sufficient, given the size and complexity of SSA's programs, to attract individuals with the desired managerial and technical abilities unless they are willing to suffer some personal financial sacrifice to work in the Federal sector.

We agree with the Panel's recommendation that Medicare and Medicaid should not be included in the new social security agency. We believe there will be extensive national debate on health cost containment issues during the next several years. HHS should take the lead in the Executive branch in this area and have direct responsibility for carrying out the policies in programs dealing with health care. To include two of the major health programs in SSA would dilute HHS' authority and divert the attention of top SSA officials to these issues and undermine their ability to concentrate on issues vital to effective and efficient operation of the social security agency.

We support, in principal, the Panel's recommendations that delegations of specific management authorities be given to an independent SSA for ADP procurement, personnel management, and administrative services. But the central management agencies must exercise their policy development and oversight responsibilities effectively in such cases.

Moreover, these authorities should not be delegated until SSA has shown that it has the requisite management expertise to effectively carry out these new responsibilities. In the ADP area, SSA already has substantial responsibility for managing its own procurements, but has not demonstrated the capability to follow prescribed procedures and existing requirements to effectively complete the procurement actions. Formal delegation should not occur until SSA, among other things, improves its technical reviews of ADP acquisition proposals, and strengthens its systems organizational structure.

While delegating the authority for administrative services may improve SSA's ability to take care of its space needs, some of the difficulty experienced by GSA in acquiring space will more than likely also be experienced by SSA. For example, in our past work we found that many of the least acceptable SSA offices were located in the inner cities. GSA experienced great difficulty in locating rental space that met all or most of SSA's unique needs. We have no reason to believe that SSA will not have the same experience.

We support the Panel's recommendation that SSA be allowed to submit its budget biennially due to the predictable nature of program administrative costs, SSI payments, and general fund reimbursements to the social security trust funds. These would be the only SSA costs subject to annual appropriation action if it were an independent agency as recommended by the Panel. On the other hand, we support the need for close congressional review of proposed expenditures and are thus somewhat concerned that the OASDI trust fund will be placed outside the overall budget review process as early as FY 1992.

We support the Panel's recommendation that certain long-term projects, such as computer purchases and facilities construction, be funded for the life of the projects, but only after SSA's financial controls have been deemed to be adequate. While such funding may increase the likelihood that projects will be completed without interruptions once they have been approved, there is no assurance that the government will get what it pays for without good and reliable financial information and reporting on costs and performance.

The Panel's recommendation may not be necessary for funding construction projects. OMB Circular A-11 requires that all requests for construction provide full funding for costs. It is current practice for the Congress to approve the total funds needed for construction in the first year.

We support the Panel's recommendation that SSA's requests in its budget submissions be based on a work force plan rather than on arbitrary personnel ceilings. Although ongoing work by us shows that SSA's work measurement system needs improving to be a reliable basis for work force planning, we believe SSA can make these improvements. Enactment of this recommendation could provide the needed incentive to SSA to act.

Mr. Chairman, this concludes my prepared statement. We would be pleased to respond to any questions.

Chairman PICKLE. By and large, you are supporting the panel's overall recommendations in most respects.

Mr. FOGEL. That is correct.

Chairman PICKLE. You observe it is possible to have an effective setup like we have now that it could be operated on the same basis as Treasury and the IRS.

Otherwise, there are a lot of difficult management problems with the current system. Based on your GAO study of the different administrative problems, at least under the present system, in what ways do the central managing agencies contribute to these problems. If this is indeed our problem, managing agencies such as GAO and OPM and OMB, can you tell me how those management agencies might have adversely affected the administration operation of the SSA under present conditions?

Mr. FOGEL. We have not seen extensive evidence in our work that leads us to conclude that they have seriously affected SSA's operations.

However, there is no doubt, for example, that in areas such as personnel management, OPM's policies on how agencies can recruit, attract, and retain people have adversely affected SSA's ability to get the top quality people they need. Not only as claims representatives, but certain as ADP experts.

On the other hand, OPM has a procedure, in certain shortage skill areas, where agencies can request certain exceptions to the specific hiring levels and procedures that must be followed. Social Security has not requested such an exemption from OPM. One of the problems may be, however, that Social Security may not have gotten adequate support from HHS to make such a request. We have not done any detailed work that enables us to speak with much confidence on the extent of that relationship between HHS and SSA in that regard.

There is no doubt that GSA has caused problems in Social Security's ability to get decent space in its field offices. Indeed, the Appropriations Committees several years ago directed GSA and SSA to try to work things out. It has not been too satisfactory as far as Social Security is concerned. From our perspective, we do not see a lot of improvement in GSA meeting SSA's space needs for field offices.

Chairman PICKLE. You said many of the SSA's management problems may not necessarily be corrected by removing it from the Department. In your judgment, what benefits would be derived from making SSA an independent agency, and what disadvantages would there be?

That is a rather broad question.

Mr. FOGEL. There is no doubt, and certainly the panel said, if SSA is made an independent agency, it has increased visibility and access to the Executive Office of the President in trying to get support for the management of its programs, so that is certainly a plus.

The potential higher salary structure for upper management people and the Administrator may indeed be a basis for being able to attract and retain more highly qualified people.

There would obviously be one less level of review on some matters. It would reduce delays and it could possibly benefit psychologically the morale and attitudes of the Social Security workers.

However, our belief is that a lot of the management problems that Social Security has had are a result of internal problems SSA

has experienced over the last 10 years, but I would emphasize that making SSA independent would tend to focus, in a public forum, more attention on some of the problems and needs of SSA.

Chairman PICKLE. I want to go back just one second on your previous statement. You said that some of the difficulties we have over there lie in the central management areas, that agencies such as GSA, OMB, and OPM could affect their operation, but you were not possessed of a lot of facts. Just how they have done that?

Let me restate that to you by way of a different presentation. You continue to say, though, though you try to protect the system, so to speak, you say GSA has severely restricted SSA in getting space.

Now, that is an interference, is it not, or a dereliction of duty. It is a very serious one. You said, on the other hand, that OPM had not given SSA all the different executive positions that they needed, that they get at least one-third, or one-fouth as much, or, yes, one-fourth as much as these other major agencies.

That is the OPM curtailing the administrative functions of that agency. OMB, now, there is the big problem in all this mess, isn't it? You don't even touch on OMB. You have looked the other way on them.

OMB is the bugaboo in all of this business. OMB is the one that has established the policies that we have or don't have, I might say, in disability. They interfere or have a very strong hand in the operations.

I feel like I am lecturing you, the GAO, but I don't want you to come up here and spread a little perfume around the room as though it is not a problem. It is a big problem.

They can't move a pad over there sometimes, unless they get clearance from OMB. The management differences are there, and we are real and they ought not to be minimized. Am I correct on that?

Mr. FOGEL. We don't mean to minimize the difficulties that the central management agencies have caused SSA. For example, in the budget area, there is no doubt that OMB and the White House were very concerned about the dollar issues on disability.

Chairman PICKLE. That is too kind a statement.

Mr. FOGEL. From our perspective, though, making SSA independent is not going to solve that problem. The Administrator is still going to be responsible to the President and the President is still going to have to submit a budget for the executive branch, and we don't see any way, given, say, under the panel's recommendation, that you will preclude that type of budgetary recommendation from the President.

We don't think it would be proper to take that authority away from the President. I didn't mean to imply, for example, that GSA has not caused problems.

For example, in the ADP area, the problems have not been, and that is one of the areas that SSA has had the most difficulty with since 1974, the problems really have not resulted because GSA hasn't worked with Social Security.

GSA has given Social Security a lot of responsibility to try to develop its own ADP systems. Social Security has dropped the ball

and has not done a good job internally in setting up its operations properly.

Chairman PICKLE. Why haven't they done that if they haven't?

Mr. FOGEL. One reason, there has been a continual turnover in leadership. They have not developed a good, effective, internal long-range planning system to come to grips with what they want their local field offices to be able to do. They have been subject to trying to respond to legislative changes in short timeframes and they have had to have a lot of crisis management to make sure they get the benefits out.

Chairman PICKLE. Are you telling me, the Administrators have not been in the position long enough and they don't feel secure enough?

Mr. FOGEL. That is part of it, Mr. Chairman.

Chairman PICKLE. If they had been there 3, 4 years, they would be doing that?

Mr. FOGEL. I don't know that we could say that for sure. If there would be more continuity of leadership, it would improve the administration of Social Security, yes.

Chairman PICKLE. When they appoint somebody as an Acting Administrator and keep him there as Acting Administrator for a year, they don't want any permanency.

It raises a question. Do you think the SSA Administrator now, if that person could correct these problems, do you think they have the authority? Does the authority rest in the SSA Administrator to do all these things now?

Mr. FOGEL. I think if a Commissioner, or Administrator, had a fixed term and he or she knew that one of the leadership roles that was expected of that person was to fight and/or improve the management of Social Security, and that person fought effectively within the executive branch and working with the Congress, we would be better off today than we are.

We should concentrate on continuity and improved management, and I don't think we have been looking for that in our Commissioners in the last several years.

Chairman PICKLE. Do you other gentlemen have something you want to say? Are you just interested in what Mr. Fogel is saying?

Mr. FOGEL. Well, they work for me.

Chairman PICKLE. I don't have you gentlemen here for the purpose of arguing with you or to be negative about it. I am going to read your testimony carefully.

If we had 10 recommendations, you supported 9 of them. You always backtrack just a little bit and say, "however." I am not interested in the "however." We are looking for some answers, and our feeling is, it is not working well now and we ought to look for some other answers.

Is there good coordination in the management field?

Mr. FOGEL. It is not as good as it should be. I think what we are saying is, it is really a policy decision by the Congress to decide whether they want to make it an independent agency.

There are definitely pros and cons, but we are suggesting that there are some other models such as the IRS-Treasury model that could be looked at as an alternative to making Social Security independent.

Chairman PICKLE. Again, you are saying this could work if, but the if is not working. Do you think the SSA Administrator has the same kind of authority as the IRS Director does in this overall fabric of government operation management?

That would be ridiculous to say they have that much authority. You wouldn't claim that, would you?

Mr. FOGEL. No.

Chairman PICKLE. We may want to have you gentlemen back or to ask you additionally about the recommendations that you have submitted here today. I wish I had some more members, because some of them would be pleased to talk with you, but they may be in touch with you later, then.

Thank you very much.

Mr. FOGEL. Thank you, Mr. Chairman.

Chairman PICKLE. Our next witness is the Acting Commissioner of Social Security, Mrs. Martha McSteen. You are on the starting block. We are glad to have you here.

You may have heard some of the previous testimony. You have a statement for the record.

Would you want to follow that statement, or do you want to summarize it?

STATEMENT OF MARTHA A. McSTEEN, ACTING COMMISSIONER OF SOCIAL SECURITY, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mrs. MCSTEEN. I will review that statement, but not go into it in detail, if that is all right.

Chairman PICKLE. We will be pleased to hear from you, Mrs. McSteen.

Mrs. MCSTEEN. Mr. Chairman, and members of the Social Security Subcommittee, I am happy to meet with you today to discuss the recommendations of the Congressional Panel on Social Security Organization.

As you know, the panel did not address the pros and cons of an independent Social Security agency. It dealt exclusively and extensively with the various administrative and organizational issues that it was directed to address, and met its statutory instructions as thoroughly and comprehensively as possible.

As a whole, the administration does not endorse the changes to the Social Security Administration as presented in the panel's report.

Chairman PICKLE. I want to ask you to stop just a minute.

Can I follow you anywhere on this or are you summarizing it?

Mrs. MCSTEEN. I am just making a summary of it.

Let us give you a copy of the summary, if you will.

The recommendations of the panel for separating SSA from HHS would not solve all of SSA's problems, but could create new ones. Moreover, it is unclear whether any method of separating SSA from HHS would solve SSA's problems.

While the Social Security Program was administered in its first years as an independent agency, by 1939 it had become an integral part of the Federal Security Agency, the forerunner of today's Department of Health and Human Services. The reason this was done

remains valid today—it makes sense to group agencies with related missions under common leadership in order to coordinate policymaking, management, and operations. It would be impractical to expect the President to manage directly all the major programs and agencies of the Federal Government without having them grouped under Cabinet officers. One of the panel's principal criteria in its study was "policy coherence," yet policy coherence would be decreased by moving SSA out of HHS.

Proposals to make SSA an independent agency arose most recently in the 1970's as a result of a concern, on the part of some, that Social Security policy decisions were being dictated by political and short-term budgetary considerations. It is, of course, impossible to consider in complete isolation policy decisions relating to a program as large and significant as Social Security. The major role Social Security plays in our society and the potential effects of changes in it on the Nation's economy and society simply cannot be ignored by policymakers, whether they are in the administration or in the Congress. On this point, the panel again emphasized:

> It is a fundamental principle of our democratic system of government that executive agencies shall be accountable to political leaders, who, in turn, are made accountable to the electorate by means of regular and frequent elections.

There is no question that the vital role Social Security plays in our society also makes it imperative the people who participate in the program have confidence in it. From public confidence, of course, comes public support.

The events of the last decade have had major effects on both public confidence and support. While the 1977 and 1983 amendments took major steps toward restoring the program's financial stability, the problems which led up to those bills certainly damaged public confidence in Social Security. But, of course, the fact is that financial soundness has been restored as a result of the bipartisan agreement reached last year, and public confidence can be expected to be restored as well. Mr. Chairman, the very size and character of the Social Security Program mean that even marginal changes in a program of such magnitude and importance have a profound effect on all elements of our society.

Whether or not the Social Security Program is administered by an independent agency will not change the basic fact that the same groups and elected officials will continue to play a key role in the development of Social Security policies. Even if the administrative structure were changed to make the Social Security Administration an independent agency, its size, complexity, interrelationships with other agencies, and sheer importance to so many people will never allow it to operate independently. Even if it were possible, it would not be at all desirable to insulate an agency which makes decisions affecting millions of people and manages billions of trust fund dollars from external influences and criticism.

Moreover, Social Security is a national program. A high priority is placed—and well it should be—on uniform national administration of Social Security laws. Our citizens depend on it. An important factor in maintaining that national uniformity is stability in the organization that administers the program.

Mr. Pickle, I will be glad to answer questions.

39-399 O—84——4

[The prepared statement follows:]

STATEMENT OF MARTHA A. MCSTEEN, ACTING COMMISSIONER OF SOCIAL SECURITY

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There is no question that the vital role Social Security plays in our society also makes it imperative the people who participate in the program have confidence in it. From public confidence, of course, comes public support.

The events of the last decade have had major effects on both public confidence and support. While the 1977 and 1983 Amendments took major steps toward restoring the program's financial stability, the problems which led up to those bills certainly damaged public confidence in Social Security. But, of course, the fact is that financial soundness has been restored as a result of the bipartisan agreement reached last year, and public confidence can be expected to be restored as well.

During the 1970's, neither Democratic nor Republican Administrations supported separation of SSA from the Department of Health, Education, and Welfare. In late 1975, Secretary Mathews, on behalf of the Ford Administration, submitted a formal report to the Senate Finance Committee opposing a bill—S. 388, introduced by Senator Frank Church (D., ID)—that would have made SSA an independent agency. The report's opposition to that bill rested principally on the interrelationships between OASDI, Medicare (then administered by SSA) and other Department programs and on the advantages of having such interrelated programs under the administration of the same departmental leadership. While Medicare is now under the jurisdiction of the Health Care Financing Administration, there continue to be close policy and operational ties between the two programs. In addition, advocates of an independent agency for Social Security underestimate the advantages for Social Security of having as a spokesman for the program a person with Cabinet rank, with the prestige and access to the President which Cabinet status confers.

The Panel recommended an independent SSA administered by "a single Administrator of high rank, with a statutory term of 4 years . . . who would report to and be appointed by the President by and with the advice and consent of the Senate." In addition, Mr. Chairman, the Panel recommends inserting language into the law specifying qualifications for the Administrator and raising the position to level II of the Executive Schedule, with "comcomitant authority and enhanced administrative and professional stature. . . ."

Of course, under current law, the President appoints, and the Senate confirms, the Commissioner of Social Security. While present law does not specify a term of office for the Commissioner (as it does not for many other high Executive Branch officials) the customary practice has been that such officials, serving at the pleasure of the President, tender their resignations upon election of a new President, at which time the new President is free to accept the resignation or to reappoint any or all of the individuals. It is difficult to see how a specific term of office would make a significant difference in the current situation. Moreover, Mr. Chairman, it is difficult to see how providing a specific term of office for the Commissioner will, in and of itself, provide increased stability in the position; any individual qualified to hold the position is qualified as well to hold other positions, in or out of the Government. In such a circumstance, individuals can and will change their career plans, regardless of the status accorded the position as head of the Social Security Administration.

Similarly, with respect to the Panel's recommendation for a list of specific qualifications for the Commissioner to be included in the law, it seems unlikely that such a change would make a significant difference in current practices. SSA is a large and important organization and there is little reason to believe any President would appoint, and any Senate confirm, an individual who is not qualified to head it.

The Administration does not agree with the Panel on the need for a permanent Social Security Advisory Board. Present law provides for an Advisory Council on Social Security to be appointed quadrennially for purposes of making a comprehensive study of Social Security. The role of periodic Advisory Councils has historically been an important one, going all the way back to 1935; virtually all the major recommendations of past Councils have been enacted into law. We do not believe it is necessary or desirable to have an advisory body of this sort sitting on a permanent basis. Periodic appointment of Advisory Councils under the current provision allows for adequate outside study of Social Security.

With regard to the Panel's various recommendations "To strengthen the management of the new Social Security agency and to improve operational accountability," I might note that the recently enacted Deficit Reduction Act of 1984 (P.L. 98-369) requires the President to review and report on all recommendations for management improvement and cost-control opportunities, including those made by congressional committees, executive and legislative branch agencies, educational and research organizations, and public and private bodies, task forces, councils, panels (including the Congressional Panel) and study groups (including the Grace Commission). Under the law, the report must be submitted with the President's Budget in January 1985, and must include a list of the recommendations reviewed, their source, the actions the President has taken or proposes to take, and the amount of cost savings expected to result from their implementation in fiscal years 1985, 1986 and 1987. The conference report includes a statement of the conferees expressing their expectation that the President's report will specifically address, affirmatively or negatively, all recommendations included in every study reviewed.

Let me conclude, Mr. Chairman, by noting that the very size and character of the Social Security program mean that even marginal changes in a program of such magnitude and importance have a profound effect on all elements of our society. Whether or not the Social Security program is administered by an independent agency will not change the basic fact that the same groups and elected officials will continue to play a key role in the development of Social Security policies. Even if the administrative structure were changed to make the Social Security Administration an "independent" agency, its size, complexity, interrelationships with other agencies, and sheer importance to so many people will never allow it to operate independently. Even if it were possible, it would not be at all desirable to insulate an agency which makes decisions affecting millions of people and manages billions of trust fund dollars from external influences and criticism.

Moreover, Social Security is a national program. A high priority is placed—and well it should be—on uniform national administration of Social Security laws. Our citizens depend on it. An important factor in maintaining that national uniformity is stability in the organization that administers the program.

That concludes my prepared statement. I will be happy to answer your questions.

Chairman PICKLE. I don't know that I am glad to receive your testimony, Mrs. McSteen, but I am pleased that you would be with us.

I appreciate the work that you are doing there as the SSA Administrator. You said that you were glad that the administration

now thinks that the Social Security system is on a sound financial footing after the 1983 amendments?

Mrs. McSteen. Yes.

Chairman Pickle. And I am glad that the administration has said so and agrees with what I have said and what the trustees have said.

Parenthetically, I am disturbed that the trustees, the administration and now you, say that the Social Security is on sound footing and yet I have noticed in recent weeks and months, the President on three occasions has talked about he is going to make some big changes in the Social Security Administration this fall because we got big problems down the road in financing Social Security and Secretary Regan has said the same thing.

I don't know that you are in a position to comment on what those two gentlemen have said, but in view of the fact you said on one hand we have soundness and solvency in the system and on the other hand we are going to make some big changes, what can we expect?

Are you recommending any big changes this fall?

Mrs. McSteen. No, sir. There are no plans to make big changes in Social Security.

Chairman Pickle. What do these two gentlemen have in mind when they keep making those statements?

Mrs. McSteen. Mr. Regan did sign the trustee's report regarding the financial soundness of the program. I was present when those signatures were attached to the report.

I know that President Reagan is extremely interested in ensuring that people in this country are treated fairly and humanely, and that he is interested, and the administration is interested in doing everything it can to preserve the Social Security system, and I do think that the 1983 amendments were a clear signal that that would happen.

Chairman Pickle. I will take this comparison one step further. Last week, the President recommended, he was going to give a cost of living allowance this fall, no matter whether the COLA is triggered or not, that he was going to guarantee we would get those increases. He is making that recommendation 80 days in advance of the submission of the figures, to say whether there would be a trigger or not.

Do you say there are no politics in that statement?

Mrs. McSteen. As you know, the 1983 amendments did require a delay on the part of the beneficiaries in receiving their COLA that they were due last year, and I think that most of us agree that with the economy improving, that it is important that all people have a chance to participate in the improved economy, and that is a step in that direction, to ensure that beneficiaries are not denied a COLA.

Chairman Pickle. Well, do you think, to restore the public confidence in a program, as much as possible we need to assure that we would have a less changable, less politically influenced administrative structure in the Social Security Program, do you think that would give us a better program, if we had less politics to it, regardless of who is in office?

Mrs. McSteen. I guess my experience says that the answer to that is that with 117 million workers paying Social Security taxes in this country, 36 million beneficiaries receiving benefits, everyone in this country is interested in Social Security, and there does not seem to be a way that Social Security can be isolated from what I consider just public awareness. In addition, there is a need to make certain that people in this country know that there will be a continuity of Social Security for the future, because it is a program to which they contribute, a program that they own and that they have an interest in insuring through their congressional representation.

Chairman Pickle. Your testimony speaks of the management advantage of grouping agencies' related missions, and to do so, put them under a common leadership. It is my understanding that the primary management advantage for the Department of this arrangement is the ability of the Secretary's staff to shift resources, personnel slots in particular, and target for SSA operations from the SSA over to other parts of the Department.

This looks like an advantage for other HHS programs but not for SSA.

Can you comment on that?

Mrs. McSteen. I don't know specifically what numbers you are speaking of.

I do know that we are trying to work very closely with the Department of Agriculture on the Food Stamp Program, and I think that, with regard to the Aid to Families with Dependent Children Program we have taken some cooperative steps that are going to result in an improved operation.

We are also working with HCFA in attempting on the third party liability to make certain that we extend that pilot throughout the country.

It is a sharing of responsibility as far as programs are concerned, but there are not very many full-time equivalents involved with that whole project, something like 30 workyears for the whole country.

Chairman Pickle. You stated that there are advantages in the way the present system works, that SSA can take advantage of the fact that you have got, in the person of a Cabinet officer, you have a person who can sit in on Cabinet meetings, and has access to the President and can, therefore, influence the program.

You have not been to a Cabinet meeting, but can you name a few specific instances in which the Secretary has defended the Agency or the Social Security Program's interest in opposition to other Cabinet office proposals, whether it is OMB or OPM or any other area?

Name me an instance where our HHS Secretary has made recommendations in opposition to some other Cabinet member or the administration?

Mrs. McSteen. Well, as you indicated, I am not privileged to attend those meetings, nor actually to see the minutes of the meetings. I can say that the Secretary has been extremely interested in the Child Support Enforcement Program.

As you know, she has worked very hard to try to get legislation in that area this year. She has been extremely interested in the

disability program and taken some actions, and I believe she has indicated through those expressions that she is truly interested in Social Security.

She has asked us on a number of occasions to make certain that we take necessary steps to assure that the homeless are treated properly, as well as individual beneficiaries. We have been able to go to the sites of the homeless shelters to take applications. We are very concerned about that.

She has also been very instrumental in making certain that the AIDS victims have recourse to designated AIDS coordinators in the Social Security Office through special numbers.

She has been supportive of me in this position, and has asked for constant reports regarding the Social Security Administration.

Chairman PICKLE. Do you feel that we have a problem in the fact that we have not had a Social Security Administrator stay on the job now—we have had three in the last 4 years and about eight in the last 10 years, I think.

It is a rapid changeover. Is there any correlation of SSA's operating problems to the fact that we have no permanency in the SSA Office?

Does it have anything to do with the operation of the programs, the systems?

Mrs. MCSTEEN. It is a very difficult organization to manage. I don't know whether that would cause some people to say they don't want a part of it or not, because it is complicated and difficult to manage.

Certainly, the tenure of the commissioners has made a difference, as I perceive it, in the way the organization is managed. I do think that there are a number of management initiatives that have been taken in the last year that are productive, and I am encouraged that there may be continuity in the future, regardless of the commissioner.

Chairman PICKLE. Do you think the constant turnover in top management of the Department and the SSA, well, both SSA and HHS, has a lot to do with the current management problem of this particular agency?

Mrs. MCSTEEN. Certainly to a degree, Mr. Pickle, it would.

Chairman PICKLE. I have a lot of questions to ask you, but I do not know that I can expect certain responses from you. I do have a question from Mr. Conable. He says, I understand you testified before the panel on behalf of the Administration, and as independent, as you did.

However, given your noteworthy and varied career in the SSA structure, I would expect you to see some advantage to the independence of SSA. Would you give us your personal views?

Mrs. MCSTEEN. As the Acting Commissioner, and I am appearing before you in that capacity, certainly my background has been extensive with the Social Security Administration, and I recognize that the lack of continuity of management is an issue.

There are many things that must be done in order to maintain public confidence in Social Security. Some of these actions have yet to be taken, and I don't think that we are going to turn public opinion of Social Security around in a brief period of time.

My experience is that one cannot talk about what good we do in Social Security or how good management is.

We simply can demonstrate through our offices, and through our individuals, that we are committed to doing a good job and without that demonstration, we will never be able to establish public confidence.

I wish some time that the world would stop and Social Security could get off for a brief period of time and that we would have time to really get our act together and get our organization well in place.

We have been tormented with various organizational changes in the last number of years, and of course, that always detracts from the morale and from the delivery of our services.

Chairman PICKLE. Before you leave, I know you have a lot of problems over there and every time we turn around, it is another problem that the press publicizes. In the period of time that you have been there, what progress are we making? What changes are you making in equipment? Can you summarize some of your activities at this point, separate and apart from the agency question, because I do not figure you are exactly an independent agent, but I would like to have your comments about the operation over there in general.

Would you care to make any statement along that line?

Mrs. MCSTEEN. Thank you. Yes, I would, Mr. Chairman.

SSA has not had stated values and objectives, a mission, if you will, clearly defined for a number of years. We have put together within the organization a plan for the future, which I think will move us certainly in the direction of, again, restoring public confidence through demonstration of Social Security's being the best public agency in the country.

You and others have certainly helped us along the way and encouraged us, for example, to improve our beneficiary notices. This is a major undertaking. Our notices are not clear. They are garbled, and we have had a lot of problems with them. We have a project group working on the improvement of our notice language for conciseness, clearness and briefness.

We are certainly moving ahead with our management information systems. We have a project manager who has pulled together the management information system. We are judged by the Congress and by the general public on how we produce and what we produce, and yet, we do not have reliable statistics regarding Social Security activities.

This management information endeavor really involved looking at the organization as a whole. There were approximately 300 individuals involved in various components throughout the organization working on management information.

We have now pulled that together under one project leader, and we are soon going to be able to have management information on which all of us can rely.

The claims modernization project is moving along; that is, we have our model office in the headquarters.

Next year, we will branch out with two offices. We are going to be able in 1986 to move across the country with our modernization within the claims offices.

We have an endeavor for improving the annual wage reporting process. We get 180 million W-2's every year. It costs 23 cents to process a paper W-2 every year. It costs only 3 cents to process a wage item on magnetic media so we have launched a campaign to try to get employers to report on magnetic media to save money.

We have improved our litigation process. No one had taken a look at that in a long time and we are moving ahead with that. We have not always been as responsive as we should be to the courts regarding answers on the cases pending.

We also have an effort launched to make certain that we know what automation is going to do to us for the future; that we can recognize in advance which employees are no longer going to be needed for their current job, so that we can make efforts to ensure that those people are retrained, or that we find other work for them in another area.

Those are just some of the things we are trying to pull together through project management. We didn't have accountability and responsibility invested in a person that the Commissioner could turn to, and with this project management, we have that accountability.

Chairman PICKLE. Are we on schedule with our computer program, the modernization, the updating of our equipment?

Mrs. MCSTEEN. Yes, we are. I heard a portion of the testimony just before I appeared, and I do want to say that, generally speaking, the procurements that have been awarded in the last two years, 183 procurements last year, and to date, about 150 this year, generally, those have gone through the process, meaning through the Department and also to GSA without any material change.

And I think that signifies that the organization is on top of ADP procurement and acquisition.

Chairman PICKLE. We certainly hope so, and we expect to keep in close touch with you, particularly if you need something. Nothing is more important to us.

Commissioner, I thank you for your testimony. It wasn't what I wanted to hear, but what I expected. We had invited the Secretary to come and testify, but we have a great deal of difficulty getting the Secretary to come up here and visit with us.

Maybe some day she will come, and I had hoped she might be here today, but she may be campaigning in Hoboken, I don't know.

I want to submit some questions to you, if I may, ask through you, to get the Secretary to give us a response to some of these questions.

[The questions and answers follow:]

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
OFFICE OF THE SECRETARY,
Washington, DC, September 21, 1984.

Hon. J.J. PICKLE,
Chairman, Subcommittee on Social Security, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. PICKLE: The Secretary has asked me to respond to your letter enclosing questions related to the Subcommittee's July 30 hearing on the establishment of the Social Security Administration as an independent agency. Attached is our reponse to the questions you raised.

I hope this information will be useful to the Subcommittee in its study of the relationship between the Department of Health and Human Services and the Social Security Administration.

Sincerely,

JOHN F. SCRUGGS,
Assistant Secretary for Legislation.

Attachment.

Question. Please describe, in detail, what functions the Office of the Secretary staff perform for the Social Security Administration that are not performed within SSA itself, other than oversight and review of SSA staff work.

Answer. Operational services for all organizational components of the Department have been centralized in the Office of the Secretary over the last 20 years in order to achieve economies in financial and personnel resources. Among the major functions performed by the Office of the Secretary as direct services to or on behalf of the Social Security Administration are:

In Staff Divisions funded under the General Departmental Management appropriation:

Payroll services for all SSA employees;

Travel voucher processing and cashier services in field offices;

Assurance of compliance with GSA requirements regarding space utilization in Federal property, and preparation of reports on achievement of government-wide space reduction plans;

Negotiation with States, local governments, universities, and nonprofit organizations for allowable "overhead" rates used in all grant, block grant, and non-federally administered benefit programs;

Issuance of payments to States for SSA programs including Disability Insurance, AFDC, Child Support Enforcement, Refugee and Entrant Assistance, and Low Income Home Energy Assistance, as well as Disability Insurance State agency payments for conduct of eligibility determinations;

In Regional Offices the provision of administrative services of contracting, small purchasing and mail management;

Provision of comprehensive personnel management services to the majority SSA field offices and personnel, including classification, staffing, training, counseling, and employee assistance;

Provision in Headquarters of operational, adjudicative and compliance activities related to personnel including EEO complaint investigations, executive and SES recruitment, employee counseling and awards programs, classification audits and appeals, labor grievance appeals, Grants Appeal Board decisions, Merit System Appeals, and affirmative action monitoring;

Structuring of requirements of large scale procurements of automated data processing equipment and establishment of regional equipment replacement programs;

Selected budget activities including an annual press release and press conference on the President's budget, general briefings of Congressional Committee staff on the budget, provision of tubular data on the budget to the Appropriations Committees, interpretation and provision of technical budget guidance resulting from Office of Management and Budget (OMB) and Appropriations Committee directives, and high level negotiations between the Department and OMB/White House representatives regarding overall budget levels in anticipation of the President's budget;

Services on behalf of all Operating Divisions are required by hundreds of Federal (administrative) statutes codified in five titles of the U.S. Code: Title 5 (administrative law); Title 31 (money/finance); Title 29 (labor relations/EEO); Title 40 (Property Management); and Title 42 (contracts), including interpretation of statues, establishment of procedures for compliance, and monitoring compliance by the agencies;

Services on behalf of all Operating Divisions are required by mandates (usually from the Office of Management and Budget) for appointment of a "lead official" to coordinate and monitor compliance with Federal regulations on cash management, debt collection, audit follow-up, procurement and reform, sharing of data processing facilities, and administrative requirements of grants to schools, hospitals, States, and local governments;

Assurance of uniform compliance, reporting, execution and implementation among all Operating Divisions for OMB Circulars, Bulletins and Directives, and for directives, and delegations from OPM, Treasury, GSA, OSHA and other Federal agencies;

Establishment of goals and monitoring compliance of paperwork reduction efforts;

Conduct of litigation activity on behalf of SSA in court and administrative proceedings concerning Federal Old-Age, Survivors and Disability Benefits, Aid to Fam-

ilies with Dependent Children (AFDC) and Supplemental Security Income for Blind, Aged and Disabled, as well as challenges to the legality of provisions of Title II, IV, XVI, XVIII and XIX of the Social Security Act, including challenges to provisions of the 1983 amendments to the Act, and changes to Titles IV-A and IV-D mandated by the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) and the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248);

Consultation and advice on the legality of legislative and regulatory proposals of the SSA, including drafting legislation, legal instruments, opinions and memoranda, and assistance in development of grounds for the recovery of Federal funds through disallowance of erroneous State expenditures under Titles IV-A and IV-D;

Legal advice to program officials regarding the Commissioner's initiatives to improve public services, claims modernization, and notice revisions;

Coordination and scheduling of preparations for Departmental testimony to be presented at Congressional hearings;

Development, clearance and transmittal of legislative proposals to Congress;

Coordination and, in some cases, preparation of responses to requests for information and assistance from Members of Congress and Congressional Committees;

Ensurance of compliance with requests for witnesses, testimony and back-up data for specific legislative proposals and oversight issues which affect the Social Security Administration;

Evaluation of all proposals for audiovisual production, and periodicals and pamphlets;

Administration and implementation of the Freedom of Information and Privacy Acts and other information-access statutes; coordination of responses to Freedom of Information Act requests addressed to multiple units of the Department for consistency and economy, and development of procedures to ensure that allowable fees are charged and collected;

Performance of management studies at SSA's behest, such as a recent request by SSA to conduct a cost study of AFDC and other public assistance programs concerning why variations appear in administrative costs from program to program and State to State;

Coordination of the internal development of the Department's entire legislative program, including proposals which cut across income security, health care and human services programs;

Conduct of research on retirement and income security of older Americans, including: retirement income from all sources (Social Security, SSI pensions, savings); interaction of retirement programs and the economy as a whole; alternative tax policies to increase reliance on pensions and other savings; the earnings sharing study mandated by 1983 amendments, and an analysis of changes in the retirement age for Social Security (in collaboration with SSA—OS has simulation model, staff expertise and labor supply data); and

Provisions of program policy advice to the Secretary on issues that involve programmmatic responsibilities of more than one of the Department's Operating Components, such as: whether AIDS should be considered a presumptive cause of disability; and an examination of the SSI and DI populations in a study of long term care policy.

In the Office for Civil Rights:

Technical assistance to ensure that federally-administered programs are run in a non-discriminatory manner;

Investigation of complaints of discrimination in SSA-funded programs administered by the States and localities; these investigations are authorized under Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973; and

Investigation of discrimination complaints in cases where an institution may receive Federal funds as a result of an individual's entitlement (e.g. death benefits).

In the Office of the Inspector General:

All Inspector General services in the Department are centralized in the office of the Secretary;

Conduct of audits and internal management reviews of Social Security programs. (In fiscal year 1983, $190.5 million in disallowances/savings were identified);

Conduct of program investigations identifying fraud, abuse and waste within the Social Security programs, including the recent investigation of fraudulent practices in obtaining and counterfeiting Social Security cards and the use of fraudulent Social Security numbers to receive Federal benefits (e.g. AFDC); and

Investigations of fraud allegations, including systems manipulation, misuse of official records and information, disability fraud and individual benefit fraud.

Question. Can you describe any instances, either in your own or in your predecessors' tenures as Secretary, in which the Secretary served as an advocate for SSA or the Social Security program at Cabinet-level discussions, in opposition to proposals from other Cabinet officials (e.g., OMB, OPM, Justice)?

Answer. During her tenure the Secretary served as a vigorous advocate for Social Security programs within this Administration, before the Congress, and in many other public forums. Among other instances, we would highlight efforts to make the Disability program more humane, to make the Child Support Enforcement program more effective, and to make our responses to AIDS victims more telling and timely.

Her role as an advocate for the Disability program has been to tacke the tough issues for which there are no easy answers. On the one hand, the amendments enacted in 1980 clearly and correctly require us to ensure that all of the individuals now receiving disability benefits do in fact meet all of the eligibility requirements specified in the law. On the other hand, we are equally committed to ensuring that all disabled persons—both those on the rolls and those first applying—receive the benefits to which they are entitled.

The first response to this dual challenge was to initiate or continue a series of administrative improvements in the disability program procedures. Among other important changes, we continued face-to-face interviews which were introduced in district offices for persons preparing to undergo eligibility reviews; all medical evidence available over the prior 12-month period must now be examined; more detailed explanations of decisions are now required; a larger proportion of the beneficiary population has been classified as permanently impaired and thus exempted from the 3-year review requirements; the medical listings used to evaluate mental impairments are being revised and updated; and a top-to-bottom review of the disability program is being conducted.

In addition to these steps which were taken both to improve the accuracy of our disability decisions and to make our decision processes more humane, we have worked with the Congress on the recently passed disability legislation. In fact, in April of this year the Secretary suspended the disability review process and ordered continuation of benefit payments to persons with pending appeals until this legislation could be enacted and effectively implemented. This cooperation with Congress and our prior administrative improvements demonstrate balanced commitment both to fair treatment for disabled persons and to responsible regard for the taxpayers' dollars.

Another important instance of the Secretary's role as an advocate for Social Security programs is embodied in the Child Support Enforcement Amendments of 1984. She initiated the Administration's development of and strong support for this legislation that was passed unanimously by Congress. Through her efforts, the President and the Cabinet were persuaded that the program's scope needed to be broadened to give the same degree of emphasis to children not receiving welfare as to those children on the AFDC rolls. Working with Congress, we have now provided the States with incentives and the mean to collect support for millions of neglected American children.

Initiatives to address the special needs of AIDS victims provide a third illustrative instance of the Secretary's role as an advocate for Social Security programs. Since AIDS was first reported in mid-1981 and she responded by making AIDS one of our top priorities, we have moved to expedite victims' claims for various social security benefits and have spent some $81.5 million for the research needed to develop a safe and effective vaccine. This ongoing research is under constant review and in FY 1985 we are requesting additional funds with which to respond to new developments.

Finally, in an effort to be as fully responsive to your question as possible, two other observations appear to be in order. First, as you know, both Secretaries Schweiker and Harris appeared before the Congressional Panel on Social Security Organization and both of them strongly opposed making SSA an independent agency. Given their demonstrated willingness to share their views on this subject and our mutual interests in obtaining a diversity of opinions on these issues, it would be far better if they were to respond to your question about their performances as Secretary.

Second, it would not be appropriate to describe specific instances of policy disagreements between the Secretary and other Cabinet-level officials over social security proposals. You certainly can appreciate that there is room for reasonable persons to have honest differences of opinion on policy issues, and that the policymaking process works best when there is a free exchange of ideas without fear of public disclosure. Therefore you can understand why we are not prepared to divulge any of

the predecisional disagreements which may have come up in the normal deliberative processes within this Administration.

In short, we think that the various initiatives to meet the tough challenges of the Disability program, to strengthen Child Support Enforcement, to respond to the needs of AIDS victims, and for other purposes, offer ample evidence of the Secretary's commitment to and advocacy of Social Security programs.

Question. Can you describe concrete examples of how the Department has served to coordinate policy between SSA and other Department agencies, such as NIH, HDS, etc.? Do other Department entities have policy concerns that have substantial connection with Social Security program policy? Has the Department actually, in specified cases, unified or clarified any major government policy issues involving SSA with other agencies?

Answer. One of the key responsibilities of the Secretary has been to ensure policy coherence and coordination among the inter-related programs of this Department. Recent changes in the law clearly illustrate the substantial connections between Social Security policies and policies developed for other agencies in the Department. Recent actions within the Department, moreover, provide specific cases that involved unification and clarification of major policy issues affecting both SSA and other agencies.

The substantial interactions among OASDI, SSI, Medicare and Medicaid policies and the need to coordinate these policies is perhaps best reflected in three changes in the law. First, in 1974, OASDI benefit increases totaling 11 percent were enacted. Beneficiaries who were also SSI recipients, however, received no increase in their total income because their SSI benefits were reduced dollar-for-dollar by the amount of the increase in their OASDI benefits. This unintended effect demonstrated the need to closely coordinate both the timing and the amount of cost-of-living adjustments under the OASDI and SSI programs, as was done in P.L. 93-368.

A second substantial policy connection, this one between OASDI and Medicaid, was the focus of legislative action in 1976. For SSI recipients whose OASDI benefits were near the level at which countable income precluded any SSI payment, annual cost-of-living adjustments under OASDI were making them ineligible for continued SSI payments. Ineligibility for SSI, in turn, was resulting in ineligibility for Medicaid. To avoid this unintended effect, P.L. 94-566 mandated continued Medicaid coverage for persons who would have been eligible for SSI payments except for the fact that their OASDI benefit increased solely due to an increase in the cost of living.

The current Administration's response to the Katie Beckett case provides an example of substantial connections between SSI and Medicaid policies. Under SSI, the income and resources of ineligible parents who live with eligible individuals are included (deemed) in assessing eligibility. Consequently, in those States where Medicaid eligibility is dependent on SSI eligibility, children such as Katie Beckett were remaining in institutions because if they lived at home, their parents' income and resources would make them ineligible for SSI and hence Medicaid. Thus, P.L. 97-248 gave States the option of providing Medicaid eligibility for disabled children age 18 or under whose medical care needs could be met more economically at home.

These three examples of substantial connections among the policies of HHS agencies are offered to illustrate that the continuing need for coordination has direct effects on both the law and the persons served by our programs. Recent actions both within the Administration and the Department, moreover, provide specific cases showing the recurring need for clarification and unification of policies affecting both SSA and other agencies.

In 1983, for example, the Administration established a Federal Interagency Task Force on Food and Shelter for the Homeless to unify and target the resources of over a dozen Federal Departments. Within HHS, our responses ranged from making unused space, clothing, and equipment available, to initiating a variety of outreach efforts to identify homeless persons who might be eligible for DI and SSI, and expediting the process of application and receipt of benefits under these programs.

Our response to the special needs of the homeless also reflects the new flexibility built into this Administration's policies. For example, Community Services block grants gave the States some $65 million in 1982 to use for emergency feeding and relief services with an additional $34 million provided to build or refurbish shelters for the homeless. Also, last March, HHS sponsored a workshop for representatives from 50 cities around the country on approaches for shelters, food banks, and other projects. In all of these ways we have helped unify and link public and private resources to address the needs of homeless Americans and to make our tax dollars go further.

Question. Please give us in some detail, data from the FY 1979 through FY 1985 budgets (including FY 1983 as modified by President Reagan) on the following subjects:

(a) Full-time ceiling positions (or FTE) requested by SSA in its budget submission to the Department;

(b) Full-time ceiling requested for SSA by the Department in its submission to OMB;

(c) OMB's mark for the Department for full-time ceiling; and

(d) Ceiling actually allotted to SSA by the Department.

See chart for answer.

DEPARTMENT OF HEALTH AND HUMAN SERVICES, SOCIAL SECURITY ADMINISTRATION EMPLOYMENT LEVELS

[Fiscal years 1979–85, full-time equivalents, except as noted]

Fiscal year	SSA's request to the Department	Department's request to OMB for SSA	OMB's mark for the Department	Ceiling actually allotted to SSA by the Department
1979 [1]	88,949	87,147	156,400	83,233
1980 [1]	88,276	86,475	153,050	83,480
1981	[2] 86,830	[2] 86,486	152,905	81,795
1982	[2] 90,278	[2] 86,953	147,640	84,952
1983	85,736	84,231	142,000	83,895
1984	89,471	84,133	137,321	81,552
1985	84,998	82,048	[3] 130,445	[3] 79,621

[1] For fiscal years 1979 and 1980, numbers represent ceilings for total employment at end of year. The FTE system of reporting employment estimates and usage was initiated by the Department in fiscal year 1981.

[2] For fiscal years 1981 and 1982, requests to the Department and to OMB number represent work-years, net of overtime.

[3] For fiscal 1985, ceiling number shown represents the President's FTE budget request to Congress.

Question. How many political appointees are now allotted to SSA (meaning Schedule C's and above)? How many were in 1975:

Answer. In 1975 two positions existed in the Social Security Administration which were filled by political appointees: (1) the Commissioner of Social Security, an Executive Level IV position whose incumbent was appointed by the President, with the advice and consent of the Senate; and (2) Deputy Commissioner of Social Security, an Executive Level V position whose incumbent was appointed by the Secretary.

As of this date, the position of Commissioner of Social Security is unencumbered and the position of Deputy Commissioner no longer exists. Three General Senior Executive Service positions are encumbered by non-career appointees, and there are three filled Schedule C (GS/GM–15 and below) positions in the Social Security Administration.

Question. What is the total reimbursement to the Office of the Secretary from the Social Security Trust Funds for functions performed by Office of the Secretary staff for FY 1979 through FY 1985 budgets? Please include general "plug" figures used to estimate SSA's share of general overhead, and give specific allotments (e.g. how much for positions in ASPE, in ASMB, etc.) to the extent you can.

Answer. Internal accounting and budgeting practices within General Departmental Management do not permit identification of Social Security Trust Funds by Staff Division. A display of reimbursements to the Departmental Management appropriations from the Social Security Administration Trust Funds follows:

[In thousands of dollars]

Fiscal year	Old Age and Survivors Insurance			Disability Insurance		
	General departmental management	Office for Civil Rights	Office of Inspector General	General departmental management	Office for Civil Rights	Office of Inspector General
1979	2,951	88	2,015	1,148	75	784
1980	3,600	176	1,806	1,200	60	636
1981	5,319	164	2,580	1,795	71	900

Fiscal year	Old Age and Survivors Insurance			Disability Insurance		
	General departmental management	Office for Civil Rights	Office of Inspector General	General departmental management	Office for Civil Rights	Office of Inspector General
1982	3,456	157	2,476	1,152	67	864
1983	3,600	165	2,580	1,200	71	900
1984 (estimate)	3,600	164	2,580	1,200	71	900
1985 (estimate)	3,472	99	9,000	1,488	.....	400

Question. Please describe programs outside the original scope of the Social Security programs (i.e. the OASDHI programs) other than the SSI program that have been given to the Social Security Administration to administer for any period of time since 1965. What adjustments were made in SSA staffing and other resources to take account of these additional responsibilities?

Answer. The Social Security Administration has been given five major programs to administer since 1965, in addition to the OASDHI and SSI programs. They are:

BLACK LUNG

Under the Black Lung program, benefits and medical treatment costs are paid to those who have been totally disabled due to pneumoconiosis. SSA administers the benefits portion of the program for claims filed before January 1, 1974. Administraton of new cases is now handled by the Department of Labor. Recent reductions in administrative resources reflect the actual decline in the eligible population for the portion of this program administered by SSA.

SOCIAL SECURITY ADMINISTRATION—REPRESENTATIVE YEAR'S RESOURCES [1]

	Fiscal year—				
	1985 REQ	1983	1977	1976	1970
FTP authorized	250	325	516	900	[2] 260
BA ($000)	$9,131	$11,000	$34,403	$49,500	[2] $3,928

[1] The earliest year shown is the first year of congressionally appropriated resources for SSA's administration of the program.
[2] Actual.

Note:
FTP authorized = Full-time permanent authorized positions.
BA ($000) = Federal administrative expenses (budget authority in thousand of dollars).
1985 REQ = Fiscal year 1985 budget request.

REIMBURSABLE WORK FOR THE DEPARTMENT OF LABOR

	Fiscal year—		
	1985	1983	1977
FTP authorized	12	11	52
Actual ($000)	$449	$326	$840

AFDC AND CSE

Under the Assistance Payments (AP) program SSA administers the Aid to Families with Dependent Children and Child Support Enforcement programs. AFDC and related programs provide basic services for needy children deprived of parental support by death, disability or continued absence of the parent from the home. The child support enforcement program assists in assuring that absent parents meet their responsibility in providing support for their children. In FY 1985 the President's budget proposes transfer of 118 audit-related FTE to the Inspector General for the CSE program.

REPRESENTATIVE YEAR'S RESOURCES [1]

	Fiscal year—		
	1985 REQ	1983	1978
AFDC:			
FTP authorized	717	757	.....
BA ($000)	$35,016	$32,500	.....
CSE:			
FTP authorized	241	361	.....
BA ($000)	$17,911	$20,927	.....
AP: [2]			
FTP authorized			901
BA ($000)			$27,211

[1] The earliest year shown is the first year of congressionally appropriated resources for SSA's administration of the program.
[2] The 2 accounts were combined until fiscal year 1982.

Note:
FTP authorized = Full-time permanent authorized positions.
BA ($000) = Federal administrative expenses (budget authority in thousands of dollars).
1985 REQ = Fiscal year 1985 budget request.

REFUGEE AND ENTRANT ASSISTANCE

The Refugee and Entrant Assistance program provides for help to refugees so they can become independent, self-sufficient members of American society. Services to include cash and medical assistance, English and vocational training, educational assistance and health screening.

REPRESENTATIVE YEAR'S RESOURCES [1]

	Fiscal year—		
	1985 REQ	1983	1978
FTP authorized	76	80	21
BA ($000)	$6,645	[2] $6,079	$3,500

[1] The earliest year shown is the first year of congressionally appropriated resources for SSA's administration of the program.
[2] Actual.

LIHEAP

The Low Income Home Energy Assistance program makes grants to States and Indian tribes to aid low-income households with high nergy costs through payments to eligible households, energy suppliers and building operators.

REPRESENTATIVE YEAR'S RESOURCES [1]

	Fiscal year—		
	1985 REQ	1983	1981
FTP authorized	40	40	40
BA ($000)	$2,103	$2,289	$4,000

[1] The earliest year shown is the first year of congressionally appropriated resources for SSA's administration of the program.

REIMBURSABLE WORK

In addition there are several programs for which SSA is reimbursed for work for other Federal agencies, private groups, etc. This includes Food Stamps, requests for private pension earnings records (ERISA) and the Federal Parental Kidnapping Act. The resources for representative years after 1978 are:

	Fiscal year—			
	1985 REQ	1983	1981	1979
FTP authorized	220	185	314	180
Actual	$10,521	$5,327	$6,395	$3,684

Question. Please describe the role played by Office of the Secretary staff, and OMB in evaluating SSA's computer systems needs over the period 1975 through 1984. In particular, what requests were made by the Commissioner of SSA staff concerning computer needs and modernization plans? What evaluations were made by Department staff concerning SSA's computer problems and future needs? What requests were made to OMB over the 1976 to 1980 period concerning aquisition and modernizations, and what was the disposition of those requests by OMB? Describe the role of the Department's procurement staff in computer systems aquisitions over this period.

Answer. The Office of the Secretary has played and continues to play an important role in helping the Social Security Administration SSA) manage its computer systems. Under the Department's senior official for information resources management (the Assistant Secretary for Management and Budget (ASMB), the Office of Computer and Information Systems (OCIS) manages HHS information systems activities in accordance with the Paperwork Reduction Act of 1980 (P.L. 95–511). OCIS performs this function by developing and overseeing policies and procedures by which the Operating Divisions, including SSA, plan for, acquire and manage their information systems.

The Department has performed these functions throughout the 1975–1984 period. However, the passage of P.L. 96–511 in late 1980, and the development and issuance of SSA's Systems Modernization Plan (SMP) during 1981 and 1982 have strengthened the Department's role. Also related to evaluation of SSA information systems, the Office of the Inspector General continually evaluates SSA computer systems and information systems management.

P.L. 96–511 and the Office of Management and Budget (OMB) Bulletin 81–21 required that the Department designate one official, reporting directly to the Secretary, as the single official (usually called the senior official) responsible for management of the department's information resources. In July 1981, HHS designated the Assistant Secretary for Management and Budget (ASMB). Among the responsibilities assigned by law to the senior official were those related to acquisition of ADP and telecommunications hardware, software and services under Federal Property and Administrative Services Act of 1949.

SYSTEMS MODERNIZATION PLAN

In February 1982, after exhaustively studying SSA's information problems, the Commissioner of SSA published the Systems Modernization Plan, a five-year blueprint for:

(1) Survival—the necessary improvements so that SSA could regain control over its computer operations. This phase is largely completed.

(2) Transition—establishing the base for movement to modern computer operations.

(3) State-of-the-art-modern computer operations featuring interactive, high speed processing over data communication lines which will result in significantly improving the timeliness of service to the public.

The SMP has been structured into five programs:

(1) Software Engineering—a complete top down analysis of requirements versus existing software, followed by enhancements to existing systems and development of new systems, as appropriate, to meet the requirements.

(2) Data Base Integration—restructuring of data files on 200 million people to make the data more accurate and accessible.

(3) Data Communications Utility—data communications computers and software to tie together SSA's field office structure.

(4) Capacity Upgrade—increased computer power to process the data for all SSA programs.

(5) System Operations Management—the installation of effective automated tools and procedures to control SSA's incredibly complex computer processing environment.

A sixth program of the SMP will be formalized soon. It will include the computerized administrative, statistical and management information activities of SSA.

SSA INFORMATION TECHNOLOGY BUDGET REQUESTS

As SSA and the Department began to implement the SMP during the last three years, SSA has presented requests for substantial increases in its Information Technology Systems Budget. The Information Technology Systems Budget request (Exhibit 43A) for FY 1982 was for approximately $176 million. FY'83 saw a modest increase to $204 million. The budget requests for FY 1984 and FY 1985 were $512 million and $578 million. Because implementation of the SMP was crucial to SSA's continuing to provide efficient service to the public, the Department fully supported these requests and included them in the Department's budget requests to OMB. OMB approved the Department's requests, as did the Congress.

SSA/DEPARTMENTAL INFORMATION RESOURCES MANAGEMENT

The overall objective of the Office of the Secretary in its management approach is to assure that SSA can focus its attention on upgrading the information systems environment and improving service to the public. The Department assists SSA in meeting its computer systems needs in the following ways:

(1) The issuance of management policies and procedures which implement Government procurement regulations and provide guidance to the Department's Operating Divisions (OPDIVs) on the management and operation of their information systems.

(2) The review and approval of Agency Procurement Requests for ADP and Telecommunications hardware, software and services.

(3) The conduct of annual acquisition management reviews.

(4) The inclusion of SSA in cross-OPDIV and other management initiatives which improve the management and the operating efficiency of the Department and the individual OPDIVs.

Each of these is discussed below.

INFORMATION RESOURCES MANAGEMENT POLICIES

The Department's information resources management (IRM) manual spells out the policies of HHS in the IRM area and requires the Department's Operating Divisions to adhere to the regulations of the Office of Management and Budget and the General Services Administration. Major sections of the manual address the key issues for successful IRM:

(1) The planning and management section describes the Department's life-cycle management concept, a careful step-by-step approach to the development and implementation of automated information systems.

(2) The procurement section spells out the Department's policies and procedures for acquiring information technology hardware, software and services.

(3) The standards section establishes responsibilities and procedures of the Department's information processing standards programs.

(4) The security section describes the HHS ADP security program, including a requirement that each OPDIV establish a program for periodic review and evaluation of computer facilities and sensitive application systems, and a requirement that all specifications for acquisition of information technology specifically include the appropriate security requirements.

SSA AGENCY PROCUREMENT REQUESTS

Department policy requires SSA and the other Operating Divisions to obtain Departmental approval for: (a) ADP acquisitions (hardware, software or services) which exceed $150,000, and (b) all telecommunications acquisitions. Computer hardware or software acquisitions which exceed $10 million also require the approval of the General Services Administration.

During FY 1982, the first year of the Systems Modernization Program (SMP), SSA requested approval for acquisition totalling approximately $61 million. FY '83 requests totalled nearly $100 million and to date in FY '84, acquisition requests total approximately $360 million.

Specific major requests during the period of the SMP include the following:

(1) State-of-the-art, large-scale computers and storage media to process and maintain information about the 200 million people covered by SSA programs.

(2) Current technology computers to replace the outmoded computers in the Program Service Centers.

(3) Software development support to modernize the existing claims processing system.

(4) State-of-the-art terminals to support the modernized claims processing system.

(5) Data communications hardware and software to link SSA headquarters with the Program Service Centers, the regional offices and the 1400 field offices.

(6) Office automation systems to support field office operations.

(7) Hardware and software to replace the Annual Wage Reporting System, the outmoded, largely manual system which SSA uses to process wage reports (W2s) about individuals.

(8) Software to improve the timeliness and efficiency of the system SSA uses to assign social security numbers to newly covered individuals.

The Department evaluates these requests to ensure that hardware, software or services requested are needed, appropriate, cost effective, fully justified and in compliance with Government procurement regulations. In the acquisition process, one of the primary roles of the Office of the Secretary is the establishment of an appropriate balance between timely procurements and the need to foster the maximum level of competition. The result of the Department's efforts is more competitive procurements and reduced costs.

Some recent examples of the Department's participation with SSA will serve to illustrate how the Department carries out its role in overseeing SSA acquisition activities:

(1) Department personnel worked with SSA personnel to segment a large procurement of data storage media which resulted in increased competition and significant cost reductions.

(2) The Department played the role of advocate with GSA, recommending GSA's approval for a large-scale computer which SSA needed in order to maintain existing software and develop new software.

(3) Department staff helped SSA evaluate vendor proposals for the contract to provide systems engineering and integration support to SSA.

(4) Department staff worked with SSA staff to broaden the scope of a proposed SSA procurement of office automation equipment. The more global approach to this requirement will foster increased competition and save several million dollars.

(5) Department staff worked with SSA to segment a SSA request for a large sole-source contract extension. The result was a series of smaller contracts, each of which would be fully competitive.

(6) Department staff worked closely with SSA to structure the requirements for the large-scale computers which would process the majority of SSA's program data. The result again was increased competition and savings of several million dollars.

ACQUISITION MANAGEMENT REVIEWS

Through the Department's new acquisition management review program, the Office of the Secretary determines the extent to which SSA and the other Operating Divisions follow Federal and HHS regulations and policies governing the management and acquisition of ADP resources. The first review, conducted during FY 1983, reviewed acquisitions made during FY 1981 and 1982. The goal of the reviews is to support the OPDIVs in developing and improving the management of their ADP acquisition process by pointing out deficiencies and shortcomings in their past procurement actions.

CROSS OPDIV MANAGEMENT INITIATIVES

The Assistant Secretary for Management and Budget (ASMB), as the P.L. 96-511 senior official for information resources management, has undertaken a number of initiatives in the Department which help SSA and the other Operating Divisions (OPDIVs) operate more efficiently. The following are examples:

(1) On January 23, 1984, the ASMB established a regional equipment replacement program designed to meet the regional requirements of SSA and the other OPDIVs, through the use of standardized and compatible computer hardware and software. The first acquisition under this program will include the office automation requirements of SSA's Office of Field Operations and the OS regional requirements of the OS Assistant Secretary for Personnel Administration (ASPER) for the Departmental Personnel/Payroll system.

(2) The ASMB has asked the Acting Commissioner of SSA to include reduced paper flow within SSA as a specific goal of the SMP and to show, in future requests for acquisition authority, how the acquisition furthers the paperwork reduction goal.

(3) The Department plans to begin moving, probably beginning in late FY 1986, those other OPDIV requirements to the Data Communications Utility (DCU) which can be more efficiently met through the DCU rather than through separate communications networks.

Chairman PICKLE. Our next witness is Hon. Wilbur Cohen, Co-Chair, SOS Coalition to Protect Social Security and former Secretary of Health, Education, and Welfare; and one of the authors of the Social Security bill when it passed, and probably as knowledgeable as anybody in America about this whole great program.

We have no greater activist for or against Social Security. We are glad to have you.

STATEMENT OF HON. WILBUR J. COHEN, CO-CHAIR, SOS COALITION TO PROTECT SOCIAL SECURITY, FORMER SECRETARY OF HEALTH, EDUCATION, AND WELFARE, ACCOMPANIED BY WILLIAM BECHILL, FORMER COMMISSIONER ON AGING

Mr. COHEN. Mr. Chairman, I am also a legal and voting resident of the most distinguished congressional district in the United States.

Chairman PICKLE. That is true. We are off to a good start, Commissioner.

Mr. COHEN. Our Representative in Congress is a man of integrity and ability. I am accompanied by Mr. Bechill, former Commissioner on Aging of the Department in the Johnson administration.

There are two changes in my statement, one addition, and one error that I have in it, so I would prefer to not have it put in the record in its present form, but I will speak from it.

I am going to answer some of the specific questions that you raised in the previous discussion.

Chairman PICKLE. You go right ahead. Your statement will appear in our committee report subject to your changes. You may proceed.

Mr. COHEN. Mr. Chairman, I believe I am the first witness to testify before you strongly in favor of making Social Security an independent agency, but with a full-time board.

Therefore, I am going to make some ad-libbed comments, because you have asked some questions regarding that issue which I don't think have been fully or appropriately answered in relation to my experience.

First, let me say this, in terms of my testimony in favor of an independent board, my view is joined by Arthur Flemming, the Secretary of Health, Education, and Welfare in the Eisenhower administration, Mr. Schottland, the Social Security Commissioner in the Eisenhower administration, Mr. Ball, the Commissioner in the Kennedy, Johnson, and Nixon administrations, and Mr. Cruikshank, Special Assistant to the President on Aging in the Carter administration, and Mr. Bechill, Commissioner on Aging in the Johnson administration, and John B. Martin, Commissioner on Aging in the Nixon administration.

And you will subsequently hear from Mr. Myers, who also, supported this idea when we were the members of the National Commission on Social Security.

Here are eight of us who have had actual practical experience in the administration of this program, both in connection with a Board, and as Commissioner. Eight of us who have had years of experience, believe that the solution to this problem and the most ap-

propriate one is to make it an independent and also a full-time board.

In that respect, we differ with Mr. Staats, Mr. Hess, and Miss Derthick, because our experience places a greater degree of reliance on the organization of the board in terms of its service to people.

Now, what you have heard today is largely management aspects of this problem to which we can completely concur with Mr. Staats' report. The recommendations, to strengthen management, accountability, we agree with those recommendations completely, but we go one step further, we say that a system that is collecting a 14-percent payroll tax from employers and employees, and distributing $200 billion of revenue a year to 36 million people, and collecting it from 116 million people, has to have a form of organization that the people out in the country believe is nonpartisan, bipartisan, independent of political interference and action.

That is the fundamental basis of our opinion. We want not only good management, we want not only good accountability, but we want the people of the United States to feel that the Social Security Program is as far as possible immune from partisan politics.

Chairman PICKLE. Do you think it is removed from partisan politics now?

Mr. COHEN. No, sir, I don't think it is removed from partisan politics. I think there has been a noticeable interference into making Social Security a political issue.

I am very delighted that the 36 million beneficiaries are going to get a roughly 2.7-percent increase in their Social Security next January.

As a person who believes that Social Security should be apolitical, I am very disappointed that it comes 100 days before the election, and I do not think that having postponed the cost of living for 6 months, and now putting back a provision that was not contemplated either by the Social Security Reform Commission, or by the law is a helpful way of making the American people feel that Social Security is a stable, apolitical situation.

Now, why do I say that? As I go across the country—and as you know, Mr. Chairman, people in this country tell me time after time "I am not going to get my Social Security when I retire"—everywhere that I speak, and I speak extensively, the first question I get is, "Well, when I get to be 65 it won't be there."

I have an answer. I say for 40-some years the Congress has seen to it that you get your Social Security. Congress has not defaulted on what is in the law. The system has not gone bankrupt. But there is widespread feeling throughout this country that Social Security is on flimsy financial ground; that millions of the contributors are not going to get their money; that the system is inequitable; that the system is not going to pay off.

Now again, we have a big problem. I don't say that I know how to solve that completely, but I do think that if there were a Social Security board of three or five members, and there were representatives of both the two major political parties on it, I think that people would feel that at least the minority member would be able to come before this Congress and tell us honestly what they thought.

I have to tell you, after listening to testimony today, I don't think you got complete answers to your questions, and quite frankly, sir, I don't think you should think that you are going to get complete answers from people who have to have their testimony approved by the OMB.

I have lived through that experience. I know what it is, and I wouldn't sit in your place today, knowing that officials who come before you cannot say what they want in terms of their personal point of view, but if you had a board, and a person had a fixed term, and you were having a hearing, and you called the majority and minority members before this committee, in my opinion somewhere along the line you would get full, complete, truthful statements about what the situation is. I also believe that what has been neglected so far in this situation is the quality of service to people.

Now I would like you, Mr. Chairman, to read again, if you will, what I think is a very fine chapter that basically Mr. Myers and I wrote in the National Commission on Social Security—the one set up by Congress, not the one set up by the President; the one set up by Congress—in which Mr. Myers and I reviewed, and which the Commission unanimously adopted, on the decline in the quality of service in Social Security in recent years. There has been a most tragic decline in service to people in Social Security.

You talked today about the computer, you talked about accountability, and talked about management. But you take a look at the quality of service today. It is nothing like the quality of service—there is a gentleman in the back of this room here, Mr. Corson, who was the Director of the Bureau of Old Age and Survivors Insurance some 35 years ago, who set the standards of the highest quality of public service in Social Security.

That has deteriorated today, and it has deteriorated because you have a lot of fingers in this pie over which people of integrity cannot grapple with OMB, the administration, the White House staff, and the others, all of whom have got their finger in the pie. Therefore, I feel strongly it should be taken out of the department.

I want to add one more point to what you have heard. It is not merely that the Commissioners turn over. It is because the Secretaries of HEW and HHS have a rapid turnover. Do you know that the average duration of a Secretary is now probably 2½ years, when you look back to 1953?

Most Secretaries—if you will permit me to say this—who come to be Secretaries, have very little knowledge of Social Security, and have a very grave difficulty in learning it in the 2 to 3 years. If I am correct, Mr. Chairman, the Secretary with the longest tenure is 3 years. My tenure was less than a year. I at least would like to say that I had some advantage when I became Secretary of knowing a little about Social Security, and so did Mr. Folsom and so did Mr. Richardson.

But if you look over the some other 15 Secretaries, you will find that they simply have not had the time or the opportunity to get on top of this problem with the layers that there are in HHS. So I agree with Mr. Staats that it ought to be taken out of HHS. But I do think that unless you have an independent board, you are not going to be able to get the kind of information out to the American

people, or the quality of service that has been the hallmark of Social Security since its beginning.

Now, if you read the study that was made a few years ago, and it is available to your staff, called "Evaluating Bureaucracy," Social Security always came out No. 1 as the agency which people in this country thought rendered the best service to people, as against State agencies, as against the Veterans' Administration, or any other agency. That, in my opinion, Mr. Chairman, has greatly deteriorated in the last few years, is likely to deteriorate even further, and it is such a great tragedy for this reason.

The total administrative cost to Social Security is not borne out of general revenues. It is borne out of the payroll tax. The employers and the employees of this country are paying for the quality of service, and it is not a burden on the deficit or on general revenues. There ought to be a quality of service embodied in the Social Security Administration that is the best in the United States, and we are not doing that at the present time.

I want to add two more points. I think, Mr. Chairman, you would not have this trouble on the implementation of your disability bill of 1980, if there had been a board. Let me tell you why I feel that way. I think that if you had a board with three or five people on it, they would never have conducted the disability examinations and re-examinations or the relationships with the administrative law judges, which you will hear later, in the way that has happened in these last 3 years.

I can't conceive of a board having to sit down and discuss these matters, with options and alternatives, having decided to do the things Department did; I can't conceive of them having to have agreed in nonacquiescence of the Circuit Court of Appeals decisions to people in equal instances within the circuit. I cannot conceive of it, or if they had done so, I think there would at least have been a minority report, and you would have been able to call that individual up to Congress and obtained some information on the situation.

I cannot conceive that a board would have gone over to the Senate on the bill that you passed here in the House and opposed any amendments whatsoever on disability, as the acting commissioner had to do, and I would be willing to exonerate the acting commissioner.

I have great confidence in Acting Commissioner McSteen; she has been a career employee; her life has been in Social Security. But when she had to go over and testify before the Senate, I don't think you got her personal views. I think you got OMB views. Now, if you had had a board, I think they could have at least called up one of the minority members, and you would have had that issue threshed out before the whole Congress. I think, therefore, Congress would have gotten a great deal more information, and the Senate would have had to act not only more expeditiously but I think more appropriately in connection with the amendments that you presented them.

Chairman PICKLE. I agree.

Mr. COHEN. Mr. Chairman, I believe that you have to put into this matrix of policy decisions that you are concerned much more than management and accountability, which has been the main thrust of the Staats Commission. I have very great respect for Mr.

Staats. He has been a friend of mine for 30 or 40-some years, but I have to tell you that I think he has not put into his decisionmaking process the issue of public response to the Social Security system. The foundation of the system is the payroll tax and the acceptability of the American people to pay somewhat more, because there will come a day, according to the schedule, when you are going to have to increase the payroll tax and the maximum earnings base.

You are probably going to have to increase the maximum earnings base next year, if you put the 2.7-percent increase into effect. That means you have got to have people in the United States being willing to accept that. They have got to understand, in doing that, that they are a part of a participatory process, and that there are people in Congress supporting a sound Social Security system.

We have had more nonpartisan support in the Ways and Means Committee in the last 50 years than we have had in the last 5 or 10 years down in the executive branch. I have always been proud of the fact that when I testified before the Ways and Means Committee, to find that there is a greater degree of willingness to share responsibility between the majority and minority parties, whichever way it was in this committee, than I find at the present time in the Department. I would like to see that in the executive branch as well, and that is why those of us who had these roles over the years feel so strongly that it ought to be a board.

Now I will just add two points and then I will conclude. We feel so strongly that this public psychology, public relations, participatory rule, public understanding, whatever you want to call this aspect that I am talking about, should be put in the situation that we recommend, and the reform commission adopted, two other proposals that go along with this.

One was to add two other members to the board of trustees of the system, presumably a Republican and a Democrat. That was enacted by your committee here 15 months ago, and the Secretary of HHS, the President of the United States, the Secretary of the Treasury has not yet made a recommendation of those two people after 15 months.

Now, that is the kind of support for helping to get the system accepted that we have had in this administration, and I feel very strongly about it. As you know, Senator Moynihan finally added an amendment to the Treasury Department appropriation bill the other day to say that the people in the Secretary of the Treasury's office wouldn't get paid unless the administration sent down those two nominations.

Chairman PICKLE. Do you think that will get their attention?

Mr. COHEN. I hope you are going to get two nominations pretty soon.

Chairman PICKLE. I noticed that two names have been bandied about. Is there any validity to that speculation?

Mr. COHEN. I am not privy to anything other than Mr. Moynihan's letter in the Congressional Record of Wednesday, and I would say I certainly enthusiastically support the nomination of the Republican which he made.

The second point, as you know, Mr. Chairman, is one you and I have discussed. I believe that Social Security should be taken out of the Federal unified budget, and while that amendment was put in

the Reform Committee package that you passed, effective 1992, I am in favor of making it effective in 1986, because Social Security is not a factor in the deficit anyway.

But most people that I talk to say, well, no, Social Security isn't involved in the deficit, or Social Security isn't involved in the surplus. They don't understand that the way it works now, it is to Mr. Stockman's advantage to cut Social Security as much as he can, because Social Security would then help to make the deficit less.

As you know, I believe that those three amendments making Social Security independent into a board, adding two public members on the board of trustees, taking Social Security out of the unified budget, would help make—I don't say make it perfect, but would help to restore some degree of public support, which was so important to Social Security in the early days of the system.

I think that we may eventually get a taxpayer rebellion against further Social Security contributions. I don't want to see that. I want to see Social Security remain on a financially sound basis. It is for that reason why I strongly, and all eight of us so strongly, urge you to make Social Security independent and make it into a board.

Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF WILBUR J. COHEN, COCHAIR, SOS COALITION TO PROTECT SOCIAL SECURITY

I appear before you today as a Co-Chair of SOS, the national coalition for Social Security. SOS is a bi-partisan coalition of more than 200 national, state and local organizations. The coalition represents workers and retirees, the blind and disabled, women and veterans, teachers and social workers, Black Americans and Hispanic Americans, civil rights groups and religious organizations. These groups have a combined membership of nearly 40 million adult Americans.

I am authorized to say that the views I express today in support of an Independent Social Security Board on behalf of SOS are endorsed by:

Arthur S. Flemming, the Secretary of Health, Education and Welfare in the Eisenhower Administration;

Charles Schottland, Commissioner of Social Security in Eisenhower Administration;

Robert M. Ball, Commissioner of Social Security in the Kennedy, Johnson and Nixon Administrations;

Nelson Cruikshank, Special Assistant to the President on Aging in the Carter Administration; and

William Bechill, Commission on Aging in the Johnson Administration.

I believe our actual experiences as administrators are a more valid and realistic indicator of the need for organizational change than any theoretical considerations which do not always accord with practical experience.

We have carefully reviewed the recommendations of the Staats panel. There is much which is useful, relevant and helpful in their report. We especially endorse their recommendations in Chapter V of the report to strengthen management and accountability. we believe these particular recommendations indicate the positive reasons why the Social Security Administration should be separated from the Department of Health and Human Services.

But we believe the policy and administration of the agency should be under a Board. This was the majority view of the National commission on Social Security (1981) on which both Robert J. Myers and I served (see Chapter 14, pp. 299-312, which I suggest members and staff should read). It was the view also of a substantial number of the members of the National Commission on Social Security Reform (1983).

We endorse the thrust of H.R. 5904, introduced by Representatives Roybal, Oakar, Synar, Vento, Frank, Wise, Dyson, Long of Maryland and Seiberling. At least one of our number would also transfer Medicare to the proposed Board. Also this Committee would undoubtedly give further consideration to the division of responsibilities

between the Board and the Commissioner. Nevertheless all of us urge your favorable support of the basic principles embodied in this bill.

I was the Technical Advisor to the Social Security Board for the entire duration of its existence (1935–1946) and subsequently Technical Advisor to three Commissioner of Social Security (1946–1955). Then as Assistant Secretary, Under Secretary and Secretary for eight years (1961–1969). During this time, I worked closely with two Commissioners.

Thus, I had nearly thirty years of close working association with several different organizational structures in Social Security. From my experience, I strongly favor removing SSA from HHS and restoring it to the independent status of a Board as it was from 1935–1946. It worked well then and I believe would work even better now.

Social Security has become so big, so complex, and so important in the economy that a Cabinet Secretary does not have adequate time to devote to the many financial, actuarial, statistical and policy issues which arise from the size and nature of the program, and at the same time to devote attention to the innumerable controversial other health and welfare problems which also are within the province of HHS.

In addition, the average duration of a Cabinet Secretary (in HEW and HHS) has been less than 3 years. Unless the Secretary comes to the position with a firm grounding in Social Security policy, he or she is going to have a difficult task in learning in depth about the actuarial assumptions, policy alternatives and administrative options in the short time he or she is in office.

All of these matters have become greatly more complicated in recent years and with the additional more rapid turnover of Commissioners in recent years, it is essential to find a more stable organizational structure which will merit the confidence of Congress and the contributors and beneficiaries.

A major problem which has arisen has been the decline in public confidence in the integrity of the Social Security system—both its financial soundness and its administrative fairness. The 1983 amendments helped immeasurably to restore public confidence in the financial soundness of the system, although there is still widespread doubt among younger people about this and considerable anxiety among older pople. The handling of disability benefits has greatly weakened public support in the administrative fairness of the program. The quality of service to contributors and beneficiaries has deteriorated. This deterioration has arisen largely because of cutbacks in staffing at the same time as increases in workloads.

It is essential for Congress to make a change in the organizational structure of the program. An independent Board, in our opinion, would help to restore public and Congressinal confidence in the program.

We believe that the Social Security program is basically sound and that administering it with a bi-partisan Board would result in better relations with Congress, more information to Congress and to the American people, and a greater willingness on the part of contributors to pay the cost of the program.

I sincerely believe that if there had been a Board administering the disability provisions of the Social Security program in 1981, we would not have had the unfortunate recent experience with the administration of the disability program. With a bipartisan Board, there very likely would have been a "whistle blower" on the Board who would have prevented or moderated the precipitate and uncompassionate implementation of the 1980 amendments.

Moreover, I also believe a Board would never have unanimously opposed the House-passed disability amendments in the Senate this year. Nor in my opinion would a Board have defied the Courts as has the present Department and Administration.

The report of the National Commission on Social Security (1981) includes a discussion of the deterioration of the quality of service in the Social Security Administration. In view of the fact that the total cost of administering the Social Security program comes from the payroll contributions of the employee-employer-self-employed contributors—and not from general revenues—I believe we should provide a better quality of service to disabled and older people. Therefore, we wholeheartedly endorse the recommendations of the Staats panel that the administrative budget should be based on a workforce plan, to be based on dollar limitations, and not on personnel ceiling controls, and that the budget should be on a biennial basis (pp. 37–39 of the Staats Report).

I like the idea of a permanent bi-partisan Social Security Advisory Board which the Staats panel recomended. I especially like the idea of four members being selected by the Congressional leaders and the term being for six years. I think Congress would get more and better information and advice if there were both a Social Security Board and a Social Security Advisory Board. There should be better liaison be-

tween Congress and the agency. I look upon the Congress as the Board of Directors of the Social Security System. It should have complete, continuous and adequate information on all aspects of the program. And the public should have more information. I would like to point out that in recent years the annual reports of the Social Security Administration, required by law under Section 704 of the Act, have not been published or distributed to the best of my knowledge. This violation of a specific Congressional mandate is just one of the violations of law which should and would be changed by a responsible Board.

TWO FURTHER ACTIONS NEEDED

We also favor elimination of Social Security and Medicare from the Federal unified budget. This policy was incorporated in the 1983 amendments but was made effective in 1992. We urge that this date be advanced to October 1, 1986. Any general fund allocations, however, should be shown as an expenditure in the Federal budget.

We regret that the Administration has not appointed the two public members of the Board of Trustees as called for by the 1983 amendments. A fifteen-month delay in carrying out this Congressional mandate is another instance of the failure of the Department to be effective in carrying out Congressional policy.

SUMMARY

We, therefore, vigorously support these five specific actions: remove SSA from DHHS; establish a Board to administer the program; remove Social Security from the Federal unified budget; add two public members to the Board of Trustees; and strengthen the management and accountability of the agency.

Chairman PICKLE. We thank you, Mr. Secretary.

Mr. Secretary, you mentioned that there should be an independent agency, that we should establish a board, and we should have the two trustees appointed, that you would have us take it out from under the unified budget. How did we get the unified budget? How did Social Security get into the unified budget process, now?

Mr. COHEN. President Johnson appointed a commission, of which I was not a member, sir. The chairman of that commission was Charles Schultze, the Director of the Bureau of the Budget, and he recommended to the President that if you want to have a neat bookkeeping system, include everything as far as possible in one single budget, and President Johnson did accept that recommendation. I had no part to play in it. I am opposed to it. I think it is a mistake that President Johnson made, and I would like to see that repealed.

Chairman PICKLE. The record will show that you didn't have anything to do with it at the time. Were you Secretary of HEW at that time?

Mr. COHEN. Yes, sir.

Chairman PICKLE. My next question, the question about the trustee.

Mr. COHEN. Yes, sir.

Chairman PICKLE. I think you will see action on that.

Mr. COHEN. Yes, sir.

Chairman PICKLE. It is inexcusable that that has been delayed for this period of time, with recommendations from the Hill and there is still no action. It shows almost complete disregard for the general operation of the Social Security Program, except when they want to make——

Mr. COHEN. Could I just add one point on that. The reason I was so strong for those two public members being on there, I would like to see those two public members, after approving the actuarial esti-

mates, to say in there along with the three people in the Government, these estimates have been developed in the best professional way that is humanly possible, and as far as we know, the Social Security income means that the system is on a sound financial basis. That is the kind of a statement that I think would be helpful.

Chairman PICKLE. Your statement, your recommendations generally parallel that made by Mr. Staats and his panel.

Mr. COHEN. Yes.

Chairman PICKLE. Except that rather than having a board appointed to be an advisory capacity or just a board to be in existence to advise, you would have an active board, a three-member board, we will say, and that board then would impart the executive secretary to run the agency?

Mr. COHEN. The commissioner of Social Security?

Chairman PICKLE. The commissioner.

Mr. COHEN. Yes.

Chairman PICKLE. I recall that when I was in Texas before I came to Congress, I was a member of the Texas Employment Commission.

Mr. COHEN. Yes, sir.

Chairman PICKLE. We had a three-member board.

Mr. COHEN. Yes, sir.

Chairman PICKLE. Appointed by the Governor. One was chairman who represented the public, another was a member who represented the employee, and the other was a member who represented the employer, and the three men literally set the policies that administered the program.

Now, we also selected and appointed an administrator of the program, a professional who knew what he was doing from 30 years of experience, based on the various rules and interpretations of law pertaining to it.

The system worked out well. It had its difficulties. In recent weeks there was a flareup about it, but they established the policy, so that board worked. Your recommendation of having a board as well as an executive secretary or administrator or commissioner should be given serious consideration. That is a possibility. But whether we go your particular route or whether we go the panel's route, you primarily recommend that we have an independent agency?

Mr. COHEN. Yes, sir.

Chairman PICKLE. That it be set up separate and apart form the others?

Mr. COHEN. Yes, sir.

Chairman PICKLE. I also appreciate your observation that we have asked many questions and haven't received answers. I guess I shouldn't have expected any answer other than what they were giving me, because that is the system. I believe we would have gotten better answers if there hadn't been so much politics. You are never going to have politics out of the system, because if you have a President elected, that President is entitled to appoint people to run that board.

Mr. COHEN. Certainly.

Chairman PICKLE. And as much as possible coterminous with his term, to have some input into it. We won't get away from that system.

Mr. COHEN. No.

Chairman PICKLE. But to say that we can't improve our system and just keep what we have got now is not being realistic.

One last question. Do you think the present Administrator, the acting commissioner of SSA, or if we had a permanent commissioner of SSA, has authority to make recommendations to hire and fire people, to make accounting changes on their own today? Do they have the authority to proceed as they would want?

Mr. COHEN. I am not privy to the entire mechanism by which appointments are done at the present time, but I do feel, from what little contact I have had with people who call me or people who I see, that down the line the morale, as you pointed out earlier, within the offices and the regional offices, is poorer today than it ever has been in the history of Social Security, and therefore I believe that there is something wrong. I can't put my finger on all of the instances that cause that, but I do think that there is another factor on which I don't have a complete anwer.

I think what we have found after 50 years of Social Security is we have had administrative hardening of the arteries. By that I mean that you naturally have to expect, after 50 years, that some of the elan vital of the earlier days, people like Mr. Altmeyer and Mr. Corson who infused enthusiasm and advocacy in the early days has been lost, and I believe that a new form of organization might—might—help to revitalize that. I will give you one illustration, Mr. Chairman, one thing you would be interested in.

I have found very little ability on my part to get students of the LBJ School of Public Affairs to go into the Social Security Administration.

Now, we get a lot of our students, as you know, because you meet with them, they go into GAO; they go into other Federal agencies. Very little interest any more in going into public service in Social Security.

Now, if you ask me why that is, I don't know, but I think it is partly because they think, like other young people do, Social Security isn't going to be here 35 years from now and I think we have got to find a lot of ways to overcome that kind of disillusionment. I am not testifying before you and saying making it into a board is going to solve all the problems or making two more members of the Board of Trustees, or taking out of the Federal unified budget, but they are all in the direction of creating a new kind of administrative relationship that will make Social Security viable for the next 50 years.

I want to say this. If it is sound to have three members on the board of trustees to assure the financial integrity of the actuarial estimate, why isn't it sound to have three members on the Social Security Board to guarantee people's acceptance of the administrative integrity of the system?

I want to add one other point which you can, of course, examine other people on.

You have got a Railroad Retirement Board. It isn't as if there is no such board, and, as you know, Mr. Chairman, from what you

said, a large number of the State agencies that administer unemployment insurance and the employment service have a board, so we have some grounds for our view on this, of doing this, and I hope you will give it the most serious consideration.

Chairman PICKLE. Mr. Secretary, I am sure we will, and we appreciate very much your appearance here. You have been there and you know how the system operated. Certainly you are in a position to make recommendations, to tell us how it could have worked, how it even should have worked.

In a way your statement today is more of a confessional than a statement perhaps, but, however you look at it, it is a good one.

Mr. COHEN. I have worked with a board. I was with the Social Security Board during its entire lifetime. I have worked with nearly every Commissioner since 1935 until recently and I worked with every Commissioner on Aging that we have had. I have been the Secretary and I have seen the layers within the Department, and I think that I have seen every possible combination of these experiences, and the net result is I think the best of all these possible worlds is independent agency with a board.

Chairman PICKLE. I am going to conclude this visitation with you by saying I don't want to leave the impression that I want to make these changes or I feel like we ought to make these changes just because we have the present administration down in the White House.

If the reverse situation was there, we would have some of these same problems. It is not going to change with a particular administration. Some may be a little more political than others, but the question is, do we make a change for the overall permanency of the operation of our system, and that is what we are looking at.

How do we do it better? I appreciate your statement and your strong testimony. I am glad you came again to Washington.

Mr. COHEN. Thank you, sir.

Chairman PICKLE. Now, will Mr. Robert Myers come forward to be with us? Mr. Myers is a former actuary of the Social Security Administration. I really should have had you here, Mr. Myers, with Mr. Cohen, but I don't know which one would have been able to testify or make statements.

This way you can get the stage and not be interrupted by Mr. Cohen or vice versa, but together the two of you are absolutely a national treasury for us in the area of Social Security.

I am personally pleased because of my privilege of being associated with you here in recent years to have you appear before us, and will be glad to receive your statement.

STATEMENT OF ROBERT J. MYERS, SILVER SPRING, MD, FORMER CHIEF ACTUARY, SOCIAL SECURITY ADMINISTRATION

Mr. MYERS. Thank you very much, Mr. Chairman. I would like to submit my full statement for the record and summarize it as briefly as I can.

Chairman PICKLE. Without objection.

Mr. MYERS. The present location of the Social Security Administration as one component of HHS has serious disadvantages. Similarly, the fact that medicare has been separated from OASDI and

assigned to another component of HHS has also produced serious disadvantages.

The current organizational structure produces an excessive number of layers of responsibility. The making of decisions is excessively slowed down by such layering of authority, including both that in HHS and OMB. Necessary action is often delayed so long as to be useless.

An outstanding example of this is the infamous OASDI notch situation which could have been greatly alleviated by feasible legislative changes in 1981, or even earlier, but never surfaced from the layers of review. This problem has been present in both Democratic and Republican administrations.

Another difficulty with the present inferior location of SSA is that policy decisions are often made for reasons other than program ones. Some proposals have been supported for general budgetary reasons, even though not good program changes. Over the half century of operation of OASDI and medicare, there have been cumulative excesses of income over outgo, and therefore Social Security has not created the tremendous budget deficits that we now have or the huge national debt.

In the same way, I think Social Security should not be asked to solve these problems.

Another disadvantage of the present stucture is that the SSA district offices have little responsibility for medicare. As a result, medicare beneficiaries have no place to go to receive face-to-face information about the program.

The panel's report presents a well thought-out plan to establish SSA as an independent agency. However, the recommended approach is not nearly as desirable as is possible, even though it is a great improvement.

I do not agree with the panel's recommendation for exactly the same reasons as Mr. Cohen—namely, that I think there ought to be a separate board with full-time bipartisan members who are there all the time.

An advisory board is fine, but usually advisory groups that just meet occasionally just do not have the impact to get into the subject the way they ought to.

I support, as Mr. Cohen did, the recommendations of the 1981 National Commission on Social Security. I think that it is essential that the board members should be chosen on a truly bipartisan basis.

I suggest that, to do so, the President should appoint the chairman, and then the leadership of the two political parties in the Congress should each submit a list of potential members to the President for his or her selection of the other two members.

Some of the previous discussions said that administration by a board just is not good administration. I do not think that this is the case. I think that a very good precedent for the proposed organization and constitution of the Social Security Board is the way that the Railroad Retirement Board has been functioning successfully, at least from an administrative standpoint, over almost the past half century.

Of course, as to the Railroad Retirement Board the President names the chairman and the other two members, but on the rec-

ommendations of the two parties involved—namely, not political parties, but the employers and the employees.

In summary, I believe that my proposal for the restructuring of the Social Security Administration as an independent agency with full responsibility for the OASDI and medicare programs would result in the best possible situation. It emphasizes both providing excellent service to beneficiaries, which, after all, should be the guiding principle of operation of the program, and also genuine bipartisan responsibility and full time leadership for their activities and development.

Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT ROBERT J. MYERS, FORMER CHIEF ACTUARY, SOCIAL SECURITY ADMINISTRATION

Mr. Chairman and Members of the Subcommittee: My name is Robert J. Myers. I served in various actuarial capacities with the Social Security Administration and its predecessor agencies from 1934 to 1970, being Chief Actuary the last 23 years. In 1981–82, I was Deputy Commissioner of Social Security. Then in 1982–83, I was Executive Director of the National Commission on Social Security Reform. In 1979–81, I was a member of the National Commission on Social Security, having been appointed by the House of Representatives.

DISADVANTAGES OF PRESENT STRUCTURE

The present location of the Social Security Administration as one component of the Department of Health and Human Services has a number of serious disadvantages and weaknesses. Similarly, the fact that the Medicare program has been separated from the Old-Age, Survivors, and Disability Insurance program from an administrative standpoint, and assigned to the Health Care Financing Administration, another component of HHS, also has serious disadvantages.

The current organizational structure produces an excessive number of layers of responsibility and authority for programs which represent such immense social and financial magnitude. The making of decisions is excessively slowed down by such layering of authority, including both that in HHS and that in the Office of Management and Budget. As a result, necessary and desirable action is often delayed so long as to be useless. An outstanding example of this is the infamous "notch" situation in the OASDI program, which could have been greatly alleviated by a feasible legislative change in 1981 (or even earlier), but never surfaced from the layers of review. This problem has been present for a number of years, in both Democratic and Republican administrations.

Still another difficulty with the present subordinate position of SSA is that policy decisions on the OASDI and Medicare programs are often made for reasons other than program ones. In the past, some proposals have been put forth for general budgetary reasons, even though they were not good program changes.

It is important to note with regard to general budgetary matters that, over the almost half century of operation of the OASDI and Medicare programs, they have had a cumulative excess of income over outgo—and so were not on a deficit basis. In other words, these programs have not contributed to the huge national debt and budget deficits, and they should not be expected to solve them. As a result of the 1983 Act, the operations of the OASDI and Hospital Insurance programs will eventually be out of the Unified Budget, beginning in fiscal year 1993. This should be of considerable value in the direction of making changes in the programs for direct reasons, rather than the indirect reason of affecting the general budget.

Another disadvantage of the present structure is that the district offices of the Social Security Administration have little responsibility in the area of Medicare, because it is primarily administered by HCFA. As a result, Medicare beneficiaries have no place where they can go to receive face-to-face information about the program.

REPORT OF THE CONGRESSIONAL PANEL ON SOCIAL SECURITY ORGANIZATION

This Report presents as well though-out plan to establish the Social Security Administration as an independent abency. However, I believe that the recommended

approach is not nearly as desirable as is possible, even through it would be a great improvement over the present situation.

In particular, I cannot agree with the following recommendations made by the panel:

(1) The Medicare program should not be handled by the proposed new agency.

(2) There should be a single, high-rank administrator, appointed by the President.

(3) There should be a Social Security Advisory Board to oversee management and to assess policy issues, which would be appointed on a bi-partisanship basis, and would be part-time, with meetings only at least bi-monthly.

As to the third recommendation, I believe that the Advisory Board would tend to be merely window dressing and would not have any real power or influence. Instead, I believe that there should be a much greater element of bi-partisanship in the administration and policy development of the programs to be handled by the proposed independent agency. Thus, in the development of policy, this Advisory Board, by being only part time, would tend to be overwhelmed by the bureaucracy headed by the full-time administrator, and would have little real effect, because developing policy is a full-time matter.

MY RECOMMENDATIONS

I continue to believe that the recommendations of the 1981 National Commission on Social Security (shown on page 47 of the Report of the Panel) are the best way to improve the operations of the entire Social Security program, including medicare. In brief, the Social Security Administration would be transformed into an independent agency which would handle both OASDI and Medicare (and also the Supplemental Security Income and Medicaid programs). The newly created Social Security Board would be governed by either three or five members—my preference is for three—who would be full time and would be appointed on a bi-partisan basis. The administrative operations would be directed by three career employees—an executive director and two chief operations officers, who would report to the executive director (with one being responsible for the cash-benefits programs and the other for the health-care programs).

It is essential that the Board members should be chosen on a truly bi-partisan basis. In some respects, this may be difficult to achieve for the one member who is not of the same political party as the President. I suggest that, in order to accomplish bi-partisanship, the following procedure should be adopted. The President should unilaterally appoint the Chairman. The leaderships of the two political parties in the Congress should each submit a list of potential members to the President for his or her selection of the other two members of the Board, followed by Senate confirmation.

A very good precedent for this proposed organization and constitution of the Social Security Board is the Railroad Retirement Board, which has been successfully operating in this general manner for the last half century. The only difference is that the Members of the Railroad Retirement Board are not selected on a bi-partisan basis, but rather the President appoints the Chairman, and then names one member from recommendations made by railroad employers and the remaining member from recommendations made by railroad-employee organizations. This procedure has worked out very satisfactorily over the years. It should be especially noted that my proposal as to selection by the President of the members of the Social Security Board other than the Chairman from recommendations made by congressional leaders of the two parties is essentially what is being done for the Railroad Retirement Board, although not a political-party basis.

In summary, I believe that my proposed structure of the Social Security Administration as an independent agency with full responsibility for the OASDI and Medicare programs would result in the best possible situation. It emphasizes both providing excellent service to beneficiaries—which, after all, should be the guiding principle—and bi-partisan responsibility and full-time leadership for their activities and development.

Chairman PICKLE. Thank you, Mr. Myers.

You make a point that the medicare program should not be handled by the proposed new agency under the panel's recommendation, is that correct?

Mr. MYERS. Yes, the panel does not recommend it.

I very much believe that OASDI and medicare is a unified program and should all be handled by one agency. Then, the benefici-

aries can go to one place to get information about the program, rather than at present where medicare beneficiaries have a very difficult time finding anything out about what the benefits provided.

Chairman PICKLE. I want to be sure I understand you. You would have medicare handled in the Social Security office rather than under HCFA, is that what you mean?

Mr. MYERS. Absolutely, Mr. Chairman.

Chairman PICKLE. You have given our committee several examples of why you think the present system doesn't work well or what some of the difficulties are, and that was one of them that caught my eye, and I appreciate that.

Mr. MYERS. Yes, sir.

Chairman PICKLE. I don't think I have any other questions for you. Your recommendation parallels that of Secretary Cohen.

Mr. MYERS. I always agree with my good friend Wilbur, especially when he is right. In this case, I think he is absolutely right. In a few other cases I might have a different view, but here——

Chairman PICKLE. I do recall there have been instances where you have not agreed.

Mr. MYERS. Yes, there are some.

Chairman PICKLE. And I am glad for that too but together no two individuals know more about this program or have a greater care and concern for it than both of you gentlemen. I think it is a moment of history that you both appear before us again recommending further changes that will help the program.

That speaks well of both of you and it speaks well of our Government and our system and of you individually, so thank you, sir.

Mr. MYERS. Thank you very much, Mr. Chairman.

[The following was subsequently received:]

Question. Please give us an example of what you consider to be the excessive layers of bureaucracy within HHS slowing down unduly the administration of the Social Security program.

Answer. Each year that a cost-of-living adjustment is made for Social Security benefits, the maximum taxable earnings base is also increased for the following year. Such promulgation is to be made on or before November 1 of the preceding year (in accordance with Section 230(a)). Actually, the results thereof can be known one day earlier, because the indexing wage from which the earnings base is derived—and quite easily—must be promulgated on or before October 31 of such preceding year (in accordance with Section 215(i)(2)(C)(iii)).

Employers and benefit consultants have great need for knowing the newly promulgated earnings base as soon as possible, so that they can make the necessary computer changes for the coming year (along with timely scheduling of any accompanying printing of material). Also, the Social Security Administration district offices have need for the data in order to process claims for the following year filed in advance.

The necessary data for the promulgation and the final results thereof are prepared by the Office of the Actuary, SSA, and are then cleared by the top SSA officials, and subsequently by the staff of the Office of the Secretary, HHS. Actually, any such clearance is purely pro forma, because the reviewers do not have the professional training and experience to analyze the figures (and the text is purely repetitive from year to year).

In most recent years, the prescribed deadline in the law has not been met, and has greatly inconvenienced many employers and benefit consultants, as well as the SSA district offices. The fault has not been with the Office of the Actuary, which has had the figures available well in advance of the deadline, or with the SSA, which has given rapid clearance. Rather, the difficulty has been with the many layers of bureaucracy in the Office of the Secretary, HHS, which have taken an undue amount of time in "reviewing" the draft of the promulgation before getting

the Secretary's signature and then transmitting the promulgation to the Federal Register.

Chairman PICKLE. Now we have a panel. We will ask Mr. Robert Fleminger and Mr. Kenneth Blaylock if they would come forward.

Mr. Robert Fleminger is president of the National Council of Social Security Management Associations, Inc., and Mr. Fleminger, you are accompanied by Mr. Jerry Shaw. The other gentleman, Mr. Kenneth Blaylock.

Mr. HARRIS. Mr. Blaylock was unable to attend. I am John Harris, his special assistant.

Chairman PICKLE. Very good to have you. I will ask Mr. Fleminger to proceed.

STATEMENT OF ROBERT P. FLEMINGER, PRESIDENT, NATIONAL COUNCIL OF SOCIAL SECURITY MANAGEMENT ASSOCIATIONS, INC., ACCOMPANIED BY G. JERRY SHAW, LEGISLATIVE COUNSEL

Mr. FLEMINGER. I will summarize briefly my statement.

Chairman PICKLE. Your statement will be included.

Mr. FLEMINGER. I represent about 4,000 managers and supervisors who are located in Social Security offices throughout the United States. The local offices where the public walks in to visit.

I am president of the National Council of SSMA on a part-time elected basis. My main vocation is district manager of the Social Security office in Grand Rapids, MI. We feel that we have a very strong stake in the whole issue of how this independent agency issue is decided, because we really are being impacted daily by all of the problems and the concerns and various situations that the public brings to us to solve in local Social Security offices.

Chairman PICKLE. Let me interrupt to be sure I understand you. You are the district manager of a district Social Security office?

Mr. FLEMINGER. That is right.

Chairman PICKLE. In Michigan.

Mr. FLEMINGER. In Grand Rapids, MI.

Chairman PICKLE. In addition you serve as president or counsel for?

Mr. FLEMINGER. The Social Security Management Association.

Chairman PICKLE. Primarily in the field of Social Security administration?

Mr. FLEMINGER. That is right.

Chairman PICKLE. Is that a national organization.

Mr. FLEMINGER. That is a national organization of about 4,000 members.

Chairman PICKLE. Is that right?

Mr. FLEMINGER. About 80 percent of the potential managers and supervisors in our offices throughout the country belong to our organization. It is completely volunteer, and I was elected as president of the organization about 2 years ago.

Chairman PICKLE. That is fine. Go right ahead.

Mr. FLEMINGER. We feel that we are kind of in tune with what is going on and what we need.

The real keynote to our testimony deals with the need for more stable leadership of our organization's structure in carrying out the

Social Security Program. A rapid succession of departmental secretaries and agency commissioners and several agency reorganizations since 1973, have helped create some real problems which we have had to deal with in local Social Security offices.

My written statement points out what some of these problems are and five areas of program and agency management which could be improved with a well designed independent agency. For this reason we are 100 percent behind having Social Security set up as an independent agency. I would like to focus on three main issues dealing with the independent agency question.

My comments will be related to a composition of the board, the appointment of a commissioner, and also some thoughts on medicare.

I would like to overall say that we do support many of the recommendations of the congressional panel, especially their recommendations which would deal with the work force budget planning system, and also the transfer of many management responsibilities to the Social Security Administration, which are now held by the Department, and agencies such as OPM and GSA.

With respect to the Advisory Board, which was recommended in Mr. Staats' panel, and the Board of Directors, which is recommended in H.R. 5904, we prefer the Board of Directors approach to managing the Social Security Administration. We really don't believe an advisory board is sufficient to provide the planning and support that is needed by the Social Security Commissioner.

Social Security has become a very, very big job, a big program, and we feel that the great strength of a Board of Directors would be to provide a focal point that would give leadership and stability to the program and to the Social Security Administration.

We believe many of the program and agency problems in the last 2 years have been caused by a lack of leadership stability, as evidenced by the rapid changeover of commissioners and secretaries over the last 10 to 12 years. Therefore, we would prefer the Board of Directors approach to the Social Security Administration.

In regard to a Presidential versus a board-appointed commissioner, we again would favor the provisions of H.R. 5094. We don't see much difference with the panel's recommendation for a Presidential appointment of a commissioner than we have right now. Our commissioners have turned over at the rate of about one every 2 years for the past several years, and we don't feel that Mr. Staats' recommendations in the panel's findings would change that.

A President would appoint a commissioner, and the commissioner would be gone in about 2 years, as has been true over the previous 12 years.

We know of no circumstance over the previous 12 years where a commissioner has left us because of poor performance. The commissioner has always left because there were other things the commissioner wanted to do. So, we do not believe that the Staats panel's recommendation would bring stability to the commissioner job at Social Security. We really need the stability in the commissioner's job, if we are going to succeed.

The last point we would like to make is in regard to the administration of medicare. Our feelings are that if medicare came back in under the Social Security Program, that it probably would mean

quite a bit more administrative complexity for the people at headquarters and in regional offices.

However, we are still dealing with thousands of medicare beneficiaries a week in local Social Security offices who come to us for advice and assistance, because the medicare carriers are not providing that assistance through the toll-free numbers that are available to claimants.

In fact, many of the toll-free numbers people can't even get through on, so they have no recourse but to come in to Social Security offices and ask us to help them complete claims for medicare reimbursement. So, from the standpoint of service to medicare beneficiaries, it would be much better if we would take that program back over, and provide the service that we once did provide to medicare beneficiaries.

Those three areas, the support for the Board of Directors, the support for an appointed commissioner by the Board of Directors, and the support to bring medicare back in under Social Security are the major points that I wanted to make today.

In conclusion, I would like to say that we fully endorse an independent SSA along the lines proposed by H.R. 5094 and S. 2778.

I realize, that there have been statements made here today that Social Security has a lot of problems, but in district offices we still feel we are one of the best managed agencies in Government. We credit much of this to the career executives who have been with SSA for many years, and who have had the capability and commitment to make it work.

We also believe that career executives would choose to delegate to field managers more authority and would like to plan for and manage a more efficient agency. Most of our current problems are a result of unstable cabinet and commissioner level leadership and our being only one part of HHS.

A Board of Directors, a longer term appointed commissioner, and an independent agency status could again makes us a great agency.

I would like to say that if we could find an appointed commissioner who would do the job as Mrs. McSteen is doing for us right now in terms of managing the agency. SSA would make very rapid and advanced steps toward becoming very efficient. That is the kind of a person that a Board of Directors and appointed commissioner might bring to this agency.

[The prepared statement follows:]

STATEMENT OF ROBERT P. FLEMINGER, PRESIDENT, NATIONAL COUNCIL OF SOCIAL SECURITY MANAGEMENT ASSOCIATIONS, INC.

SUMMARY

Members of the National Council of Social Security Management Associations wholeheartedly supports efforts to make Social Security an independent agency. We prefer the agency management approach proposed in H.R. 5904. The bill provides for a bi-partisan Board of Directors and a Commissioner appointed by the Board. This structure would insure the agency's continuing independence and commitment to its crucial mission. Also, on balance, we support administrations of the Medicare Program in an independent Social Security Agency.

Efficient and consistent administration of the agency has been inhibited by political and ideological intrusions and unified budget balancing strategies. As a separate agency Social Security would be able to stabilize agency leadership under competent career oriented leaders. A non-politically appointed commissioner would be devoted

to long term planning and budgeting, as well as short term. Line management authority would develop under leadership dedicated to efficient long term administration. The independence and accountability of a separate agency would lead to renewal of depleted public support.

An independent Social Security program would remedy many of the problems that have plagued the agency. We place the blame for most of our problems on unstable short-term leadership and our not braving independent agency status. A Board of Directors, a career appointed Commissioner and independent status could again make us a great agency.

STATEMENT

Who we are

Our Association was founded 14 years ago to represent the views of SSA field office managers and supervisors. The Association flourished because of the need for field office managers to have the opportunity to present unfiltered views to top regional and central office administrators. We are a management association which is recognized as supportive and complementary to SSA management initiatives. We have members in over 1,300 field offices and teleservice centers. 80 percent of eligible management employees belong to our dues supported organization.

The people I represent are in the most publicly visible and accountable jobs in our agency. Each year about 25 million Americans visit Social Security offices, and another 15-20 million telephone us. We answer tens of thousands of Congressional inquiries and other advocacy requests, and prepare and deliver thousands of speeches, broadcast and print media releases, and engage in other activities to inform the public about Social Security. We are on the cutting edge of public reaction to every executive, legislative, judicial and agency decision affecting the Social Security program. We also bear the brunt of any criticism of our agency or program.

However, what we are most concerned about in the field office is our ability to efficiently serve our fellow Americans who rely on our agency for timely and accurate payment of their checks. When we can't accomplish a timely payment or a payment is interrupted or delayed, we have to deal with the problem, often on a face-to-face basis. Over the past ten years many problems have been beyond our control.

We testified before the "Congressional Panel on Social Security Organization" and have examined their report. We have also carefully examined the legislation introduced in the House by Congressman Roybal (HR-5094) and by Senator Pryor in the Senate (S-2778). These legislative proposals would provide more independence for the SSA, and propose other solutions to some of the problems the agency faces.

We support a Social Security Administration that is as independent as possible, and which is not subject to constant shifts in policy direction. In comparing the Panel's report with the legislative proposals, we would like to comment on three specifics of the many differences; namely, an Advisory Board v. Board of Directors, a Presidential v. Board Appointed Commissioner, and the inclusion or exclusion of Medicare Administration in an independent agency.

Advisory Board v. Board of Directors

We prefer the Board of Directors approach to agency managment, along the lines set forth in HR-5094. We don't believe an advisory board is sufficient to provide the planning and support needed by the Social Security Commissioner. The Social Security and Supplemental Security Income programs touch 40 million beneficiaries and account for nearly 25 percent of the federal budget. A program of such monumental impact needs the wisdom, support and continuity of a Board of Directors. The job is too much for a Commissioner alone. The great strength of a Board of Directors will be the leadership and stability it can give to the program and agency. We believe many of the program and agency problems in the last two years have been caused by a lack of leadership stability and continuity. Since 1973, the Social Security Administration has been run by eight different Commissioners and the Department of Health and Human Services has been headed by six different Secretaries. This has not led to agency or program stability.

Presidential v. Board appointed Commissioner

Again, we prefer the provisions of HR-5094. A Commissioner appointed by a board for a five year term is perferable to a four year Presidential appointment. We believe the five year appointment will lead to finding an individual who will be more career oriented and one who will likely stay for the five years. The Panel's recommendation for a four year Presidential appointee does not change current practice. Our experience has been that appointees over the last ten years have stayed less than two years on the average. Presidentially appointed Commissioners have not

brought with them a commitment to stay with the agency and as a result generally have short term outlooks. We very much want to have a Commissioner with a career interest in the SSA program and agency, and one who will take a long-term planning and administrative outlook.

Medicare administration

We have divided feelings about where Medicare should be administered. From an agency adminstration and complexity standpoint, it would be best to leave Medicare with HHS. Certainly the problems of handling OASDI and SSI may be enough for SSA.

On the other hand, SSA field offices cannot escape continuing service to Medicare beneficiaries. Field offices still handle thousands of Medicare inquiries per week. Medicare beneficiaries come to us for help in completing benefit claims and for answers to questions. They often do this because toll free numbers offered by Medicare carriers are not responsive to their questions and problems. We believe the close relationship of Medicare to Social Security in people's minds needs to be considered in deciding who should administer Medicare. The relationship may make it more logical for SSA to administer the program. From our viewpoint, an SSA administered Medicare program would better serve the needs of the citizenry, and would make solving Medicare financing problems somewhat easier. We are sure that public fears of Medicare bankruptcy have an impact on their preception of the Social Security program.

Supporting rationale

Attached is a more in-depth discussion of five reasons we believe a properly designed independent SSA would improve the Social Security program, as well as the efficiency and productivity of our agency.

Conclusion

We fully endorse an independent SSA along the lines proposed by HR-5094 and S-2778. Our agency has always been one of the better run and managed. We credit this to the career executives who have been with the SSA for many years and have the capability and commitment to make it work. We also believe the career executives would choose to delegate to field managers more authority, and would like to plan for and manage a more efficient agency. Most of our current problems are a result of unstable Cabinet and Commissioner level leadership and our being only one part of HHS. A Board of Directors, a longer-term appointed Commissioner and independent agency status could again make us a great agency.

[Attachment]

Supporting Rationale

An independent agency has the potential of significantly upgrading the efficiency and productivity of the SSA by improving five critical areas. They are: Public support for the program; stability and competence of agency leadership; short and long range planning; budgeting adequate resources; and improving line management authority to manage.

First, public confidence in and support for the Social Security program and our agency has been excessively tested over the past ten years. Going into the 1970's, our program and agency enjoyed high public support and regard. Then, several things happened beginning in the 1960's which eroded public support. The first error was made in the 1960's when the Social Security Trust Funds were included in the unified budget. This act opened the Social Security program up to more political and ideological intrusion and made the financing of the program more vulnerable to budget balancing strategies. Then, a major shock came in 1973 when we were given the SSI program to administer with a relatively short implementation time frame. A decision was made to implement SSI with about one-half the staff used by the states to administer state old-age and disability assistance. Because of the complexity and immensity of the assignment, too little staff, inadequate time to prepare a good computer support system and problems getting state cooperation, SSA and field offices became hazard zones in January 1974. It has taken us years to recover and along the way questions were raised in the public's mind about SSA's ability to administer its programs.

In 1976 a decision was made at the Department level to create the Health Care Financing Administration. Since then, in our view of Medicare, service to Medicare beneficiaries has declined leaving SSA field office employees still responsible for a lot of Medicare work. Then, we moved into the financing crisis which led to the 1977 amendments. The amendments were heralded as fixing SSA's financing needs well

into the next century. This did not prove to be the case. Consequently, for the past three years we have gone through the trust fund bankruptcy scare which led to establishment of the bi-partisan Commission and the resulting 1983 amendments. However, we believe that we are headed quickly toward another bankruptcy crisis with Medicare financing and are concerned how it will be fixed. In the past two years we have come under increasing criticism because of our erroneous payments to both living and deceased beneficiaries. In our eyes, the cause for many of our payment problems is the legacy of neglect in securing adequate computer hardware and software to accurately and timely process and monitor benefit payments.

Our most recent crisis has been the Continuing Disability Review (CDR) initiative. As soon as the tone for the CDR's was set, field managers knew we'd eventually suffer from the approach and consequences of vigorously removing beneficiaries from the disability roles. The media coverage of the excesses of the process has been devastating to our image. Had it not been for a more reasonable approach to implementation of our debt collection efforts over the past two years, we believe the same negative fallout would have occurred as did with CDR's. The difference was that field managers had control over the debt collection process, but little control over the CDR initiative.

We believe an independent agency with stable direction and a long range outlook could have made a significant difference in all of these situations. The 36 million Social Security beneficiaries and the 115 million contributors deserve a planned and stable social insurance system run by professional, knowledgeable and more permanent administrators.

Second, the Social Security program and the agency are crying for stable and independent leadership. Since 1973, SSA has had eight Commissioners and the Department has been run by six different Secretaries. There was ineffective top leadership during the early years of SSI implementation. We were led through two destructive reorganizations by different Commissioners, our computer systems were allowed to decay to a crisis condition and our management support systems were chaotic. At the same time DHHS took more control over SSA resources and management decisions which has resulted in inadequate implementation of the Merit Pay System and continuing inappropriate staffing and spending cuts. Continuation of the current system for appointing agency leadership has not and will not lead to effective agency management. We support an independent agency because SSA simply cannot function well when career managers must constantly adapt to ever changing leadership, policy decisions and management style.

Third, the public will learn to trust the program and its administrators again if they have a predictable and stable program. This can be achieved only by long range planning. In field managers' eyes, neither the executive branch as a whole, nor the Department is designed to deal with long range planning. SSA tries, but cental Office initiatives often are not followed through or are shifted to another track when a new Commissioner takes over. We believe it was a reflection of poor planning which made it necessary to form the 1983 Commission on Social Security. It is possible that, had SSA been an independent agency for the past ten years, the 1983 Commission would have been unnecessary. An independent board with the time and continuity to develop strong bonds with Congress and Administrations, would have a much better chance to nurture needed changes to keep the Social Security program healthy and solvent.

We also see the lack of planning affect our agency operations. At present, key SSA administrators are working as a team to bring our field office claims taking process into the automated era. This will include computer key stations for interviewers which will allow them to make more accurate and timely payments. However, we are concerned that the effort could be sidetracked by a new Secretary or Commissioner with a different agenda or outlook. It could also be easily sidetracked by budget tightening. Over the past few months there has been some disagreement over a policy on the size, structure and placement of field offices. And, it is being further complicated by the Grace Commission's recommendation that the number of field offices could be reduced by 60 percent. Another recent Presidential initiative which could have a negative impact on field offices is "Operation Bulge". The call to reduce employees in grades 11 through 15 could impact SSA, even though the percentage of employees SSA has in those grades is less than the private sector percentage. The force of the budget deficits and the push to reduce the size of government has the potential of significantly changing and reducing field office services and accessibility to our clients. Is this what the citizenry wants? We doubt it! An independent SSA would be in a much better position to come to grips with the need for a longer range outlook. Its leadership would be more likely to define a solid long range policy and plan for service delivery which is in touch with citizen needs, and

could begin planning and budgeting for several years to make sure SSA was making the best use of staff and technology. Without question, productivity has great potential to be increased and there are significant opportunities to save money.

Fourth, an independent agency would have a better chance to budget for and obtain needed resources. Over the past few years it has become increasingly clear that SSA is being arbitrarily treated in the budget process. SSA has a sophisticated and accurate means to count and time the work produced. These figures provide solid projections of the level of staff needed to do the job. However, SSA's staffing needs are being aribitrarily cut without regard for work to be done. For example, SSA requested 83,297 full time equivalent positions to get the job done in FY 1984. OMB said we could have 81,550, and in January SSA had to settle for that figure. The 1985 budget calls for a reduction of another 6,800 HHS positions and we believe SSA will take more than its share of the cut. SSA made a well documented request for FY 1984 staff to cover projected work and staff needed to handle continuing implementation of the 1983 amendments. For example, in a five month period starting with February, 7.5 million letters were sent to potentially eligible SSA claimants. Field offices already have handled 239,000 inquiries and taken 65,229 claims. No extra staff has been allocated to handle this work. Since 1980, SSA has been reduced by over 5,000 positions. In that time, our benefit roles have grown, reaching an all time high in June, 1984. Another example of budget cuts in face of growing workloads is the relationship of SSA administrative expenditures and trust fund income. Budget authority limitations projected for FY 1985 will reduce expenditures by $36 million, while net SSA outlays will rise by $11.6 billion. Something is very wrong in the budget and staffing allocation area. Field managers are willing to accept staff reductions if they are rational. However, we are at the point where we don't have enough employees in field offices to get the job done, and no relief is in sight.

The same negative outcomes are felt in the equipment, employee training, travel and office space budgets. Effective middle management training is not being sufficiently budgeted. Once new supervisors get their 80 hours of required training, additional training is often not given. In a membership survey we conducted in 1983, we found that 50 percent of our managers and supervisors had no management training since 1979 and 25 percent had none since 1977. An independent agency may be able to build support for a more rational staffing and other resource acquisition process. We believe the process should be related to formulas applied to trust fund income and what is good for the SSA program. We also believe that employee efficiency and productivity could be increased through a more effective budgeting process. Cost saving initiatives could be sensibly implemented.

Fifth, management authority is a prime candidate for an independent agency to take advantage of to make SSA much more efficient. HHS and SSA are strongly centralized agencies. We believe SSA is more centralized than it would choose because of the strong centralized control held by HHS. We are certain that SSA could tap immense creativity amoung field and other operations managers if authority was delegated to plan, manage and efficiently utilize available resources and people. Everything managers do relating to employing people and spending money is controlled from above. A manager cannot, without higher approval, hire an employee, approve an award, make most promotional selections, change a staffing mix, buy equipment, make telephone changes for over $500, authorize training courses, etc., etc. Of course, all of these restrictions are not entirely of SSA's doing. Tight controls by other Departments make it impossible in many of these areas for SSA to implement delegations. OPM places unrealistic constraints on our hiring; GSA constrains space and equipment acquisition; OMB controls our spending and staff levels; and computer acquisition is constrained by OMB, GSA and by Congessional committees. Field managers don't have much opportunity to make a difference in local office spending and staffing patterns. An independent agency, run by stable leaders, may be able to start a planned process of truly putting managers in charge of their offices.

Chairman PICKLE. That is very commendable of you to make a strong and positive statement about the Acting Commissioner. We share that. She is very able. She is a professional of the highest type.

If you prefer a board rather than an advisory committee, what would be your feeling with regard to the differences on the kind of board under this bill H.R. 5094, or the board that the panel has

recommended, or more specifically, the board that is envisioned by Mr. Cohen, a three-member board?

Mr. FLEMINGER. I think an advisory board is not adequate, personally. I think the board has to be vested with more power and more stability to be able to make decisions and to be able to work with the Commissioner in order to make sure that we have a longer range plan for the Social Security Administration. Most of our problems have been caused by the lack of a long range plan for deciding what the Social Security Administration should do.

Chairman PICKLE. How do you feel about a three member board that Secretary Cohen recommended, an active board who would then select a commissioner.

Mr. FLEMINGER. I think that is the way it should be done, or a five-member board as recommended in H.R. 5094.

Chairman PICKLE. Certainly if we were to combine the administration of both medicare and Social Security under this program, and handle these cases in your district offices, as you are not now set up to do, if we did that, you would be having an extremely large operation, wouldn't you?

Mr. FLEMINGER. You see, I think there is a misconception here. We still take care of a lot of medicare beneficiaries, and I don't think bringing medicare back into the Social Security Administration would have that much impact on field offices of Social Security. We still are taking a lot of claims and answering a lot of questions and dealing with a lot of the problems of medicare beneficiaries, and the public sees a very close relationship, and in fact, there is a direct relationship between medicare and the OASDI Program. We feel that as long as medicare has a financing problem, that people are still going to connect those two up, and they do. Citizens are still going to feel Social Security is in a financial crisis. If those two programs were blended together again, all of the financing problems could be addressed in whole and then maybe a better solution would come out of the whole situation.

Chairman PICKLE. Your testimony is very helpful and thank you.

STATEMENT OF JOHN D. HARRIS, SPECIAL ASSISTANT, ON BEHALF OF KENNETH T. BLAYLOCK, NATIONAL PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

Chairman PICKLE. Mr. Harris, do you have a prepared statement? Do you want to insert it or summarize?

Mr. HARRIS. I have a written statement and if you could enter it in the record.

Chairman PICKLE. You are making Mr. Blaylock's statement?

Mr. HARRIS. Yes, I have his statement and I will highlight the statement briefly.

AFGE strongly supports making Social Security an independent agency. We represent 72,000 of the Social Security workers working in the headquarters, the payment centers, some 1,200 or so district and branch offices, and the data operations centers and hearing and appeals offices. Our workers feel strongly that it should be made an independent agency, primarily because of their frustra-

tion in delivering the service to the public that they would like to deliver.

I have heard much testimony about the problems of morale at Social Security. We concur that the morale at Social Security has deteriorated and it is based primarily on the fact that the workers and the managers, my colleague on the left, would like to be able to give to beneficiaries prompt, timely, fair, caring service, service that guarantees the people are paid what they are due and over the last 10 to 14 years, that has changed, so that today workers and managers at Social Security commonly are obliged to pay the beneficiaries untimely, to pay them in incorrect amounts, simply because there are not enough workers or because we have received orders from on high not to make timely and proper payment.

There are three issues that we take dispute with the panel on, and they are the same issues that you have heard others testify to, and I will just be very brief in our observations.

The first is, what programs should the Social Security Administration as an independent agency administer, what programs should they carry on?

The panel appears to have simply looked at titles II and XVI of the act and said those clearly belong to Social Security, but all else should not and we think that they gravely erred in that determination. There are many ways in which Social Security now plays vital roles in determining policy and providing administrative support or public service in other key areas and medicare is only one of them.

Also AFDC for which Social Security has primary responsibility as a regional administrator and as a policy analyst and also in the area of vocational rehabilitation programs for which Social Security has an immediate interest because it defines the terms for the disability program.

Second, there is the issue of whether there should be an independent, bipartisan board governing the Social Security Programs, or should there simply be some Presidential appointee.

We have come to the conclusion that there should be an independent, bipartisan board governing Social Security, but for different reasons perhaps than the others. We came to the conclusion that there should be a board, because there must be some way that when bad policy is adopted by an administrator, that bad policy can be stopped quickly and efficiently without all the ballyhoo of going to Congress and all of the public pronouncements and denunciations that seem to take place nowadays.

It never should have happened that the disability program fell into the tragedy it has gone through over the last 3 years. It didn't begin in 1980 with your amendment. It began in 1972 when we stopped doing a serious and substantial review of disability benefits in the Social Security Administration and we started a long deterioration of that process and allowed the States to go off and make independent, sometimes arbitrary and conflicting decisions on disability and allowed people to come under disability that should not have.

We have come to the conclusion that there should be an independent board that can shortcut the kinds of decisions that the current administration and past administrations have made that adversely affect the beneficiary by acting as an oversight, by review-

ing policy, by approving or denying regulations proposed by a commissioner.

In that, we offer, I guess a more specific recommendation for this kind of board, one that is not directly involved in day-to-day administration or management issues, one that defers to a commissioner or chief executive officer, but one that retains to itself a fundamental and vital role of setting policy for Social Security.

The third and final issue that we feel strongly about is the so-called management problems of Social Security.

We agree with the statements of our colleagues that it is not, that the problems of the management of Social Security are not caused by the intention, or the lack of talent of its current management, or its workers. The problem is caused by the outside interference of other agencies of Government whose interests are not whether or not Social Security is well run, but whether or not money can be saved by closing offices or cutting workers to do the program.

So for that reason, we feel that there must be stronger steps in the area of solving the management problems of Social Security. It is not enough just to have a board, that board and the new administration should have authorities to set its own pay, to be able to acquire its own facilities, plan its own resources within, of course, the parameters of a budget of Congress, independently of GSA, OMB, OPM, and even the current statute that governs such things.

That is the gist of our comments, Mr. Chairman.

[The prepared statement fcllows:]

STATEMENT OF KENNETH T. BLAYLOCK, NATIONAL PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES (AFL-CIO)

I am Kenneth T. Blaylock, National President of the American Federation of Government Employees, AFL-CIO. AFGE represents 72,000 Social Security workers, virtually all of the major components of the Social Security Administration, including its headquarters, payment centers, data operations centers, 1,300 district offices and many hearings offices.

We appreciate the opportunity to appear before the Subcommittee to testify on the report on making the Social Security Administration an independent agency. We supported the Subcommittee's desire to authorize a panel to study the implementation of this proposal. We testified before the Panel and will continue to contribute to the discussion of this issue as the Congress moves toward legislation.

AFGE strongly supports the proposal to make Social Security an independent agency and so we are generally pleased with the findings of the Panel. The union has been before the Subcommittee and others in Congress dozens of times over the past several years on the problem of the Social Security Administration. Each time we come before you it becomes more clear to us that the real difficulties in Social Security are management problems—poor administration of the disability programs, for example, or bad office conditions or outdated computers. Our own experience with that management has taught us that here is an organization not in control of its programs, its own resources, or budget, or its own policy. Whatever the Social Security Administration does, the Department of Health Human Services overlooks, redoes, or argues about; and this situation is then compounded by the oversight, redoing and arguing of a half dozen other governmental bureaucracies like OMB and GSA. We came to the conclusion long ago that, even with all its faults and shortcomings, Social Security management would manage much better and more efficiently if it were independent. And that is the fundamental reason we support this proposal. The Panel took the time and put much effort into studying the underlying problems in the Social Security Administration which have prompted this issue to arise. The report adds to the evidence that the management of the Social Security programs is as important to the fairness and effectiveness of those programs as legislation and congressional hearings. In fact, all the legislation and hearings in the world cannot protect a program if an administrator has a mind to undercut it. Staff-

ing cuts, reorganizations, rewritten rules and regulations can systematically undo the very intent of Congress, making a mockery of the program. That can happen and does happen and in many more agencies of government today than just Social Security.

As I say, the Panel did an excellent job of setting forth the terms and issues of the debate that now lies ahead of us as we seek to find the best way to establish an independent agency. Today we would like to focus on three of those and offer our thoughts for your consideration.

The Panel sketched out the role of this new independent agency by separating it from the Department of Health and Human Services. We agree with this. They then went on to assign the various titles of the Social Security Act to the new agency and to DHHS. In general, we agree with the Panel's premise that the Social Security Administration should continue to manage the current programs under its jurisdiction. But in spite of that premise the Panel removed some Social Security programs and functions from the Social Security Administration, perhaps without realizing all the circumstances. SSA, more than DHHS, is the immediate regional administrator and policy analyst for AFDC and other economic security programs. They also have an intimate relationship with vocational rehabilitation services (e.g., responsibility to design and implement demonstration projects and critical program concepts). The Panel's proposal to separate these programs from SSA would be disruptive and would lead to overlap and duplication of administration, much as it exists now, and lead to conflicts between the programs, even to the extent that they may be counterproductive, such as, would be the case if the SSA sought to improve and expand vocational rehabilitation services in order to save costs of disability benefits and the DHHS sought to restrain its budget. Such interagency squabbles are common. Finally, there is the difficult question of Social Security's role in Medicare and Medicaid. We remain open-minded on this issue. We would emphasize that SSA provides significant support for those programs now, both in terms of direct public service and administration. It would be unwise to disturb that relationship, we believe.

The second issue we would like to discuss is the role of a bipartisan board in the independent agency. Here the Panel retreated, opting instead for a Citizens Advisory Committee and an upgraded Commissioner. We doubt this proposed structure will really solve the problem as intended.

The Panel apparently agreed that some check-and-balance was needed to safeguard the professional administration of Social Security programs and to protect it from swings of ideological interpretation. We agree, but what they proposed is not the best way to do this and raises some serious problems itself.

A Citizens Advisory Committee, such as proposed here and also in H.R. 5904, has a useful purpose: it involves the public meaningful in the discussion and development of programs that affect all of us at one time or another during our lives. But it is no substitute for real policy-making oversight. A true veto of bad policy still falls on Congress, even if the Advisory Committee is hostile to what the administrator does. In effect this is no change from the current structure.

Accordingly, we support a bipartisan board with real authority and purpose, and we believe this structure best addresses the problems you seek to solve. It seems that the Panel was confused over what the role of the Board would be. To us a Board should be specifically and narrowly responsible for policy decisions, receiving and approving proposed regulations, advising Congress, the public and the President on Social Security issues, and overseeing and intervening in Administration only to the extent needed to safeguard the justice and purpose of the programs. Ideally the Board should function with little staff, depending instead upon the support and staff of the Social Security Administration. Administration itself, we believe, is a function of highly competent managers selected and hired for skills and leadership in much the same way as a corporate board hires a chief executive officer. We endorse the concept which many have advanced that the chief administrative officer of Social Security would be hired and accountable to the Board, and not a political appointee. We also go further to suggest that in general Social Security management should be removed from politics and should be hired and fired for their competence and not their willingness to please some political viewpoint (whatever it might be).

This brings us to the concluding issue: What authority must the Congress delegate to the Social Security Administration in order to insure that it is well-managed?

For this union this is the key and crucial matter. We do not believe that any change of structure will by itself make Social Security programs better managed unless you really give to management the authority and the responsibility to manage. By this we mean the common authorities that private-sector management uses in its day-to-day business—pay-setting, staffing, planning, resources-management—within, of course, the parameters of budgets determined by the Congress.

Without these authorities the management of Social Security really belongs to other agencies of government—GSA, OPM, OMB, and the like. It is they who dictate whether district offices are poorly equipped and crowded. It is they that have forced the Social Security Administration to delay payment of benefits and short-cut computations of benefits so that people are underpaid. Staffing cuts, reorganizations, pay that cannot compete with the private sector—all these sorts of constraints have ruined the administration of the programs and brought this Subcommittee more than once to legislate matters which sound administration should have resolved on its own.

Therefore, AFGE urges legislation to remove these constraints and test the matter once and for all, whether in fact the government can be managed like the private sector by giving it and the workers the authorities and responsibilities that they have in the private sector.

In closing we would like to acknowledge the legislative proposals of Senator Pryor and his colleagues and Representative Roybal and his colleagues. Insofar as these bills are drafted we support them, although we think they are inadequate by the omission of the true management authorities of which we have spoken. We ask the subcommittee to review them carefully in its consideration of legislation and encourage you to favor the inclusion of management authorities.

Chairman PICKLE. Mr. Harris, you represent not only SSA employees, but other employees under HHS. If you had an independent agency, would this create any problem personnelwise between the SSA personnel and the HHS personnel?

Mr. HARRIS. The reorganization would lead to some displacement of people. I don't think it would lead to any job losses. I think that we would have to be very careful in planning the change and phase it in carefully.

Chairman PICKLE. The panel recommended that the independent security agency be given authority to examine and to recruit its own level employees. Do you think this authority will improve the staffing in the district offices? Would it help if they were given that authority?

Mr. HARRIS. I think undoubtedly. At this point, Social Security is not able to recruit the kind of clerical staff that it would want to, because it cannot pay enough. It cannot recruit the kind of claims representative it would want to because it lacks sufficient authority to go out and hire them.

Chairman PICKLE. You said that you wanted us to have an independent agency, and you think that we should have a board that would operate and function, and if I understand you, you are going to have that board as independent?

Mr. HARRIS. I am sorry; poor choice of words.

The board governs the independent agency. The board is independent in the sense that it is free from the President in making its determinations on policy.

Chairman PICKLE. All right. Thank you very much.

Mr. Conable.

Mr. CONABLE. I have no questions except about employee morale and I would like to address this to both of you gentlemen.

Is morale more of a problem in the district offices or in the central office in Baltimore, and is it affecting the efficiency of the agency significantly at this point?

Somebody said here earlier, we will return to the great agency we can be. From that I would judge that you feel that morale is very seriously deteriorated. There has to be some degree of accountability.

Government agencies cannot be isolated from policy, and we set a lot of policy right here on this committee and rightly so, since we are supposed to be representatives.

I have heard that the turnover at the top, failure to implement announced policies and the tendency for each new administrator to feel that he has to set up new procedures of one sort or another have caused serious problems but has that reached down to the district office level? I assume directives come out to the offices, that change the way people do things which is always disruptive, but is it more a matter of being a stepchild which comes to those who have to deal with the top administrator as he turns over from time to time, or is it a confusion of policy that is affecting morale?

Mr. FLEMINGER. There are two issues that affect morale in the Federal Government.

The first is the general attitude of recent administrations, and sometimes elected officials toward Federal employees in the negative environment that seems to be set up for us.

The other thing that affects morale within the Social Security Administration, the major thing, is the staffing of the organization, I feel.

I feel that over the past 2 years, there has been a lot done in our central office structure to do things, to change policies and make things work a little better and certainly our computer support systems have been a lot better over the past 2 years.

In the last 2 years, for example, I have lost 10 people in my office that have not been able to replace, and then we have problems like the SSI Alert Program where 7½ million notices were mailed to beneficiaries throughout the United States and there was no increase in staffing to handle that so I really feel that most of the morale problems in the Social Security Administration have to do with the way we have been stretched in the staffing areas and if we could address that and come up with how many employees Social Security really needs to do the job, we could do a lot to improve client services throughout the country.

I am not so sure that we need a lot more employees than we have right now but continuing to lose them creates serious morale problem for us.

Mr. HARRIS. There are two parts to the problem, and the first is the way that all Federal employees feel they are treated by the Congress and the public. We have done surveys concerning how they feel about their jobs, they said: "I would not recommend being a Federal employee to my children." They now say, "We no longer feel proud to be Federal employees." At one time they felt that they were. That is a serious part of what it is, and within Social Security itself particularly, yes, it is the staffing and more importantly, I think it is the feeling that the executive level of Social Security does not really care about the program itself and about what the program stands for.

Mr. CONABLE. Perhaps now that they are covered, they will feel more that way. No comment is necessary; that is all.

Chairman PICKLE. Thank you for your testimony.

The National Association of Administrative Law Judges in the Department of Health and Human Services, Judge Ainsworth H. Brown, vice president.

STATEMENT OF JUDGE AINSWORTH H. BROWN, VICE PRESIDENT, ASSOCIATION OF ADMINISTRATIVE LAW JUDGES IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

Chairman PICKLE. Do we have a statement from you, Mr. Brown?

Judge BROWN. Yes; I brought it in this morning. I was advised—I was about to mail it express mail on Friday—that no one would be here on Saturday to receive it and it would be acceptable to deliver it this morning, which I did.

Did you receive a copy, Mr. Chairman?

Chairman PICKLE. If you will summarize your statement, you may proceed, Judge Brown.

Judge BROWN. OK.

The more than 400 members of our association appreciate the opportunity to have a representative come before you today, Mr. Chairman, to submit a statement for your consideration as well as the committee.

I should like to point out that this statement has been approved by our president, Charles Bono, and so it stands as the statement of the association.

If I could capsulize what I have to say in a few sentences, it would be that our tact is a little bit different from the general tenor of the testimony that you have heard because of the uniqueness of our function. Basically speaking, we feel that when it comes time for Congress to consider the issue of whether or not to create an independent Social Security agency, it is also appropriate to consider separation of the functions of the administrative law judge from the Social Security Administration.

In my written statement, I state that the Social Security Administration has forfeited its right to manage the hearing activity and I point out several illustrations to prove that point.

I think that the interest in management of the Social Security Administration is discrete from the function of a hearing process. I think over the last several years that distinction has become quite apparent, and as I point out, with respect to the Bellmon Review, and some of the facts that came to light in our trial earlier this year in this city the distinction is important.

There is a desire by the Social Security Administration which has been exhibited over the last seveal years to control the results in the hearing process, and I think this has undermined confidence in the Social Security Administration, because it has not allowed the hearing function to be independent, and so in the eyes of the public, there has been a concern that has been raised as to the fairness of the hearing process, so when I refer in the last page of my written statement to several pending bills, both in this House and on the other side of the Capitol, there are two different types of legislative initiatives that have been considered.

One is called an independent review commission. That would be the Senate bill 476. The other bills to which I refer, H.R. 5156, and S. 1275, call for an independent administrative judge corps where all of the administrative law judges would be housed in one corps with separate divisions to take care of certain types of administrative hearings.

When this committee and when the Congress considers whether or not to have a separate agency for Social Security, it would be very important to consider separating the hearing function from SSA and thereby restore confidence in the hearing activity which has been undermined over the past several years.

That would constitute a summary of my statement which I hope you will be able to incorporate our full statement in the record for your consideration.

[The prepared statement follows:]

STATEMENT OF JUDGE AINSWORTH H. BROWN, VICE PRESIDENT, ASSOCIATION OF ADMINISTRATIVE LAW JUDGES IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

The more than 400 members of our Association appreciate the opportunity to have a representative come before you today to submit a statement for your consideration relating to the possible restructuring of the Social Security Administration. There are several bills pending in both houses concerning the hearing process that I and my colleagues are interested in.

The basic position of our Association is that there is an important need to separate the hearing function from the control of the Social Security Administration. This change will insure the independence of the hearing process which has been severely undermined during the past several years. Due to the abuses visited upon the process, we believe that the Social Security Administration has forfeited its right to manage the hearing activity.

To illustrate the problems afflicting the hearing process, I point to the following situations. The Ft. Smith, Arkansas Hearing Office has been the object of considerable interference from the Regional Commissioner's office, Dallas, and the Central Office of the Office of Hearings and Appeals. In fact, testimony taken in a trial in this city earlier this year, disclosed that threats had been made to one of the Judges to close the hearing office stemming out of the controversy over the issue of the so-called high allowance rate of the Judges in that office. A Judge from that ofice has told me that the Regional Commissioner in Dallas has had ex parte communications with the Appeals Council respecting pending matters. Coincidentally, with the institution of our Association's lawsuit against the responsible officials, a program of "counseling" was about to begin in an effort to change the attitude of Judges, i.e., lower allowance rates. Some of the documents obtained through discovery were for a behavior modification program.

Near the close of discovery in our litigation, we learned thrcugh our attorneys that the former Associate Commissoner's performance plan between himself and the previous Commissioner of Social Security and the Acting Commissioner, contained language to the effect that the goal to be sought as a result of the Bellmon initiative was a lowering and further lowering of ALJ allowance rates. This is an unwarranted and extralegal intrusion in the decisional independence of Administrative Law Judges. Separation from the agency of initial adjudicative authority would cure this undermining of the integrity of the hearing process.

This was only one aspect of the pernicious nature of the Bellmon review process as implemented by the Social Security Administration. The problem of the Bellmon review goes back to the Congressional Record references to the pending amendment on or about January 30, 1980 and repeated in late May of that year. The references that I call your attention to were the references that despite the promulgation of the medical-vocational regulations in February 1979, Administrative Law Judges were allowing even more cases than before. What the Congress was not told was that in material ways, those regulations provided more favorable treatment to claimants 50 years and older, than previously was the case. At the same time, sub rosa manual instructions of a more conservative flavor were supplied to State Agency adjudicators who were to follow these secret instructions strictly. The rest of the story is well known to this Committee and resulting in one of the provisions of the Pickle Bill which passed so overwhelmingly in the House. The provision, of course, dealt with a rulemaking requirement for uniform adjudicative standards. This lack of candor in dealing with the Congress and the concomitant vilification of Administrative Law Judges, creates an intolerable situation.

Separation from the Social Security Administration will reinforce the requirement for rulemaking for disability adjudication standards. The distance between the agency and the hearing activity will enhance a communication process that is on

the record for both better public and Congressional scrutiny of the policy making process in disability adjudication.

Another facet of interference with the integrity of the Social Security hearing process is the fact that under the guise of alleged inefficiency, three Judges were brought before the Merit Systems Protection Board by the Agency for low production. Fortunately, the Board dismissed the charges in the two cases on insufficiency of evidence. This leaves the spectre hanging over us, depending on SSA whim or caprice, upon achieving better record gathering, that computer generated data will be used to evaluate a Judge's performance in contravention of the specific Administrative Procedure Act prohibition. Further, based on some Board dictum, an SSA dominated OHA is already indicating that insubordination may give rise to further charges for MSPB proceedings. Thus, there is the continuing desire to control the Judge in his judicial functions.

This is a concept which is foreign to the judicial nature of our job. In a separate adjudication entity devoted to organization of trial activity, problems of direct and indirect violation of the APA would be muted because the distinctiveness of our function would be more clearly recognized.

Another example of interference with the independence of the hearing process is the emergence of forced "reconfiguration." I put that term in quotation marks because I have reason to believe that it is a non-word as a political speaker mentioned in a recent TV interview. The issue here is control of the Judge's work product. The position description for an Administrative Law Judge mandates that he or she have full control over a number of specified functions. This is not a shared or partnership responsibility, but is solely vested in the Judge. While many offices have had typing and other pooling arrangements that the Association and its members have not objected to, we have raised objections to the forced pooling of those employees who have been under the direct supervision and control of the Judge.

The importance of control is vitally important in the non-adversary hearings we conduct. The regulations require that we inquire fully and interpretation of that request by the District and Circuit Courts of Appeals have placed important burdens on us to develop medical and other evidence. Separation from the Social Security Administration will allow for a healthy period of reassessment of hearing office structure in a more judicial mode which will, in turn, allow the Congress and the public to know that the hearing process is one which demands both confidence and respect as being out from under the domination of the agency that, "denied the claim twice before." Although speculative to some extent, there can be a reversal of the layering of management levels centrally, locally, and at the local hearing office level. Consequently, economy of function is a realistic consideration.

As Appendix A, I am enclosing a copy of President Bono's letter to the new Associate Commissioner for Appeals.

Illegal indirect pressure on Administrative Law Judges to achieve Social Security Administration production goals through the application of production standards for subordinate employees would be unlikely in a separate hearing activity which would pay more attention to all professional responsibilities required of an Administrative Law Judge and support staff. With the emphasis on professionalism that a specific judicial entity would imply, quality hearing activity would not be the "sometime thing" it has been. As the immediate past Associate Commissioner for Appeals stated to a group of Judges, he was for both production and quality, but that if he had to choose, he would take the former over the latter. It is only now, with the respite in receipts, that OHA is indicating that they will allow for more professional training for Judges, including Administrative leave for judicial seminars. The previous arbitrary refusal to allow this professional activity demonstrates vividly the conflict between the Administrative Agency and the professional activity of the hearing process.

Finally, there could be more direct contact and interchange with the Congress over budgetary and staffing patterns. Despite assurance to staff up to a 5:1 ratio made to this Committee in October 1981, that goal was only achieved in a random fashion based to some extent on the blandishments to "persuade" offices to "reconfigure" as the only way to secure additional staffing and new equipment. This management style while softly criticized by the former Associate Commissioner as "overzealous", nevertheless, had his ostensible support. As the hand picked head of the Office of Hearings and Appeals by the erstwhile Commissioner and as the Associate Commissioner for Appeals spending considerable time in the Baltimore Headquarters Complex, there has been an unhealthy and too close relationship with the agency of original jurisdiction, the Social Security Administration, and the Office of Hearings and Appeals. The functions and interests are distinct and the difference ought to be recognized.

I have just briefly touched on the Agency's interference with the integrity of the hearing process due to the short period of time that our Association has had with respect to this hearing so that my Association would respectfully request additional time to supplement these remarks. I respectfully request that this subcommittee seriously consider as part of your deliberations on the subject matter of these hearings, the concept of a separate review commission with jurisdiction over the cases that Social Security Judges presently hear and along with that idea, consider favorably pending legislation for an independent Administrative Law Judges corps (H.R. 5156, S. 476, 1275).

[Appendix A]

ASSOCIATION OF ADMINISTRATIVE LAW JUDGES,
DEPARTMENT OF HEALTH AND HUMAN SERVICES,
Kansas City, MO, July 12, 1984.

FRANK V. SMITH III,
Associate Commissioner,
Office of Hearings and Appeals, SSA,
Washington, DC.

DEAR MR. SMITH: We are quite concerned with reports that "reconfiguration" of hearing offices in Regions I, III and IV is being ordered by Regional Chief Judges of those Regions. We are also advised that at least one of the Regional Chief Judges preceives it is within his management prerogative to order "reconfiguration" of an office without the voluntary consent of the Administrative Law Judges in the hearing office. Apparently, he has interpreted your reported remarks to him that he could run his region as he sees fit, as a carte blanche authority to impose any management system he chooses.

While general office management matters may appropriately be determined by management officials in the day-to-day operations of an office, the Association has long opposed any management system that in effect prevents the individual Administrative Law Judge from having the freedom of action and authority necessary to carry out the duties and responsibilities of his office.

The duties and responsibilities of an Administrative Law Judge are specifically stated in his official Position Description. They are many. The Administrative Law Judge has "full authority and responsibility" to carry out those duties under direct delegation from the Secretary of Health and Human Services.

Because previous management proposals such as the "Hearing Office Management," "Supervisory Staff Attorney," "Pooled support staff," and now what is called the "reconfiguration" system of office management, fail to provide adequate safeguards to the ALJs authority necessary to permit him to carry out his delegated duties and responsibilities as enumerated in his Position Description, the Association opposed the imposition of those systems on the hearings and appeals process.

As the result of the Association's and individual Administrative Law Judge's voice opposition to "reconfiguration" of hearing offices, the previous Associate Commissioner, Louis B. Hays, agreed that in no event would any hearing office be required to reconfigure and adopt the pool support staff system and abandon the "unit" office management system. It was further understood that, since the basic tenet of the reconfigured office required individual Administrative Law Judges to re-delegate the authority to direct and supervise the work on the case assigned to them, and the other delegations of authority they were granted directly by the Secretary of Health and Human Services, the decision to reconfigure an office could only be made by the Administrative Law Judges and upon such terms and conditions that they accepted and approved.

During Mr. Hays' tenure in office certain management actions were carried out designed to "persuade" ALJs to "voluntarily" choose the reconfiguration system, albeit their strong reservations. First, it was made clear that hearing offices that agreed to reconfigure would receive preferential treatment in the assignment of support staff, equipment, etc., while "unit" offices that refused to reconfigure were not treated fairly, and in many instances were permitted to languish in their need for additional support staff, replacement support staff, etc. Second, a propaganda campaign designed to make it appear that "reconfigured" offices were more efficient was launched. Deceptive statistics were published as to "reconfigured" offices' production, which failed to advise that those production figures were in many instances the result of the "reconfigured" offices' efforts alone. Indeed, there were examples where "reconfigured" offices used support staff from "unit" offices to achieve the production results credited to them alone.

This preferential treatment of offices that would agree to reconfigure and the promise of more efficient operation prompted many ALJICs to pressure and other-

wise "persuade" individual ALJs in their office to agree to reconfiguration. This had two advantages or the ALJIC; he would be considered a "good boy" by management, and his office would receive the fringe benefits of more staff, more equipment and a "most favored office" status. Apparently these "dirty pool" tactics have resulted in more and more offices agreeing to reconfigure so that, as recently reported, more than 50% of the hearing offices have "reconfigured."

In April 1984, memoranda issued from Central Office over the signature of Mr. Edward Steinman, these conversion statistics were reported. Additionally, Mr. Steinman urged certain ALJICs to agree to reconfiguration of offices that still maintained a "unit" system operation extolling the virtures of reconfiguration and implying that such systems were superior because they are based upon "group accomplishment" principles rather than individual accomplishment, and relying upon ostensibly higher production figures.

The impression was still conveyed by those memos that it was a matter of voluntary choice of ALJs to agree to reconfiguration by those memos, but it is not crystal clear from Mr. Steinman's memoranda whether the "voluntary" choice was now to be exercised by the ALJIC or the ALDs as had been previously the case. Instances have been reported where the ALJs would not agree to reconfiguration, management was permitting the ALJIC to make the choice. This, of course, was contrary to the original agreed upon voluntary choice practice, and could explain in part how so many additional offices agreed to reconfigure when the ALJs individually would not accept it on a voluntary basis.

In management's zeal to accomplish reconfiguration it even permitted offices that agreed to reconfigure to retain certain vestiges of "unit" procedures. That practice has resulted in a pervasive confusion as to just what "reconfiguration" as implemented means, except for its basic objectionable dogma that management, and not the ALJs control the staff.

All of this creates the present perception shared by many ALJs, that they have been used as "ploys" in a management game. First they are told it is their choice. Then, when they will not agree to reconfigure, they are told it is the ALJIC's choice. Then, when the ALJIC's won't agree, they are told it is the Regional Chief Judge's choice. Such practices create a critical credibility issue for you as our new Associate Commissioner. The actions of the three Regional Chief Judges in forcing reconfiguration so soon after your meeting with them creates the impression that these actions are being taken with your approval, if not by your direction.

The practice of "reconfiguration" with or without the consent of the individual ALJ without adequate provisions of control retained in the individual Administrative Law Judge, violates the integrity of the ALJ position. It superimposes a layer of management control by non-APA individuals who are "mere employees" of the agency. Since they can be made to answer to the agency, and are controlled by it, it is improper and must be stopped. The critical freedom of action necessary to decisional independence as envisioned by the APA cannot and should not be removed in such a manner.

Should the precedent be established that management officials of an agency can with impunity convey the delegated authority reserved to the Administrative Law Judge by his position description, and the Administrative Procedure Act, to someone else, treating him as a "mere employee," the due process system in the Office of Hearings and Appeals will be irreparably damaged by removing the controls of APA appointed officials.

We must not lose sight of the important fact that it is the Administrative Law Judge who is delegated the "full authority and responsibility" by the Secretary to carry out his duties and responsibilities. That fact is clearly set out in his official Position Description. Management cannot and should not convert the authority of the Administrative Law Judge directly delegated to him by the Secretary of Health and Human Services to non-APA management officials of the agency by forcing reconfiguration. Indeed, this whole management system needs critical re-evaluation.

As you know, and as recently stated so succinctly in a report prepared by the Subcommittee on Oversight of Government Management of the Committee on Governmental Affairs of the United States Senate entitled, "The Role of the Administrative Law Judge in the Title II Social Security Disability Insurance Program" issued in October, 1983:

"The APA mandates that the ALJ be an independent, impartial adjudicator in the administrative process and in doing so separates the adjudicative and prosecutorial functions of an agency. The ALJ is the only impartial, independent adjudicator available to the claimant in the administrative process and the only person who stands between the claimant and the whim of agency bias and policy. If the ALJ is subordinated to the role of a mere employee, an instrument and mouth-piece for the

SSA, then we will have returned to the days when the agency was both prosecutor and judge.

"The system of administrative law as we know it is a product of much thoughtful consideration and concern for competence and fairness. One key to this process is the ALJ, and, the integrity of the position must therefore be protected."

As I explained to you in our recent meeting, the first impressions of the ALJs of an Associate Commissioner are often those that last. We now have a credibility issue. Our Association was told many times that there would be no coerced "reconfiguration" and we have it. The Association was not advised of any change in the policy of non-coercion. Could you please advise us if you have authorized coerced "reconfiguration?" Could you also advise us as to what "reconfiguration?" Could you also advise us as to what "reconfiguration" means today?

We hope you share our sincere concern that this matter be resolved properly and immediately by you. Should you do nothing, or approve of the actions of forced reconfiguration, there will be little opportunity for dialogue of a meaningful nature between the ALJs, our Association, and you as the new Associate Commissioner. That would be regrettable for all concerned.

We anxiously await your reply. We hope you will immediately resolve this problem and thereby obviate the necessity of any further action on the Association's part. Your immediate reply is essential. As we are dealing with the preservation of due process rights, it is required.

Respectfully,

CHARLES N. BONO, *President.*

Chairman PICKLE. The problem of ALJ judges and their independence is a problem of intense concern, particularly among the ALJ's.

I visited many of the offices and have held hearings in which this question comes up. There is interference in the hearing process, by the appeals section, and I do not know that I am in a position to pass judgment on it, but I know it must be a serious problem, because it constantly comes up.

How would we separate them? Would you separate the ALJ's from the SSA?

Judge BROWN. Yes. That is what we urge you to consider.

Chairman PICKLE. Where would you put them?

Judge BROWN. One legislative choice would be the administrative law judge corps in those two legislative proposals I have referred to.

Chairman PICKLE. Who would appoint them then?

Judge BROWN. The appointment process would stay the same as it is now.

The selection process by the Office of Personnel Management, and then the appointments could still be made in approximately the same manner.

There would be chief judges appointed for certain terms in the administrative law judge proposal.

The housekeeping functions for running hearings would be separated from the appointing agency. That would be the main concept in this separation process.

Chairman PICKLE. Under the present operation where the ALJ's are appointed by the Secretary, isn't it, or is it enough that the, under the Administrative Procedures Act, that the Secretary is supposed to be limited and restricted in the controls they might have.

Judge BROWN. The appointment process now is not so much the nature of the problems that I pointed out. I think the appointment process is not where the problem is right now. Where the problem lies is how the agency deals, specifically, that is how the SSA deals

with appointed administrative law judges, those who were functioning in the job, and how their work and their unique function is perceived by the agency.

I think that the appointment process would stay the same, but you would have the function be a separate entity, and therefore, with that separation, you would not have or tend not to have the problems that have arisen in the last several years.

Chairman PICKLE. I know you respect the fact that we are holding a hearing today regarding the question of the independence of a Social Security Administration.

We are not holding hearings to decide whether it should be a separate agency. It is a difficult problem, and I would be glad to receive on behalf of the committee any examination, giving us specific cases in point where there has been interference, undue influence or whether in any way the Secretary has influenced any of these cases, either the outcome or the speed, undue speed, in making a decision or any other aspect that would be helpful to us.

We would like to have it. I don't know that we are going to get into the area of making the hearing examiners independent, because that is not the purpose of the hearing.

Judge BROWN. I understand, and I respect your statement, but I just felt when you were having a hearing on the general subject of separation, this was at least an ancillary subject for consideration.

Chairman PICKLE. You haven't missed your chance and we are glad to have your testimony. Please submit any statements that you think would be helpful to us and we will look into them.

Thank you, Judge, very much.

[The following was subsequently received:]

ASSOCIATION OF ADMINISTRATIVE LAW JUDGES,
DEPARTMENT OF HEALTH AND HUMAN SERVICES,
Wilkes-Barre, PA, August 15, 1984.

JOHN SALMON,
Chief Counsel, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. SALMON: I am returning the transcript of my testimony along with two additional documents that I ask to be added to the record. I believe that they further demonstrate the need to separate the hearings and appeals activity from the control of the Social Security Administration. This will be important for the Committee as well as the Congress to consider upon any deliberations on structuring or restructuring of the Social Security Administration.

The letter from Judge Thomasson to Mr. Smith and enclosures shows Social Security's disregard of due process considerations, and the memorandum of May 23, 1984 by Mr. Enoff demonstrates on a broader basis the same problems in not allowing the hearing process to be free of domination by those who control the initial phases of adjudication. It is indeed ironic that those who have caused the problems will be able to applaud themselves as "good managers" by taking initiatives to create the impression of solving the deep rooted problems emerging more significantly in the recent past.

A word was missing from the last line of Page 1 of my written statement. The word "office" should be inserted before the word "stemming." I respectfully request that the insertion be made in the official report of my statement.

Finally, I would like to bring to the attention of the Committee the report issued by the Subcommittee on the Oversight of Government Management of the Committee on Governmental Affairs of the U.S. Senate. The report is entitled "The Role of the Administrative Law Judge in the Title II Social Security Disability Insurance Program", 98th Congress, 1st Session, Committee Print S. PRT 98-111, October 1983. I suggest that this report be incorporated in the record of this hearing.

If the Committee has further questions, the Association will be glad to furnish any information that it can.

Sincerely yours.

AINSWORTH H. BROWN,
Vice-President, Association of Administrative Law Judges.

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
OFFICE OF HEARINGS AND APPEALS,
Fort Smith, AR, August 8, 1984.

Hon. FRANK V. SMITH III,
Associate Commissioner, Social Security Administration, Office of Hearings and Appeals, Washington, DC.

DEAR COMMISSIONER: Recently at Dallas, Texas, I suggested to you there were two situations going on that violate POMS, the regulation and due process, as well as impugning the integrity of our records at the Federal Court level.

I am sending you two examples of each. There have been many.

First are secret (secret in that no copy is sent to the claimant or his representative) letters from the Regional Commissioner to the Appeals Council, asking that a favorable Administrative Law Judge decision be "reopened" by the Appeals Council.

Attached hereto firstly is a letter I wrote to a Ms. Lawrence dated January 27, 1984. This letter cites the violation of the POMS regarding "Judgment Factor" ands also the appropriate regulation. Attached to this letter is a letter from the Regional Commissioner alluded to above.

Attached secondly is another letter of the same type which resulted in this claimant's benefits being ceased also.

In addition to violating Regulation 416.1473 in both these cases, the Appeals Council did not follow POMS, Sec. GN 03110.330C which provides:

"The Appeals Council will send a copy of the memorandum or referral to the claimant and/or representative if it decides to review the hearing decision."

The second problem is the secret input (secret in that it is not made a part of the record) of the consultative physicians' reports to Appeals Council analysts.

Attached hereto thirdly is such input in the case of 431-21-3264 whose favorable decision was remanded based on said input.

Attached hereto fourthly is the same thing in the case of 429-56-2567. Attached to the physician's report is the request for such report from an analyst (query—why did the doctor mention Bellmon).

The claimant nor his representative knew of these medical opinions being considered.

Finally, with secret evidence not spread on the face of the record, the integrity of the record for appeal purposes is inpugned and due process of law violated.

Sincerely,

JERRY THOMASSON,
Administrative Law Judge.

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
OFFICE OF HEARINGS AND APPEALS,
Fort Smith, AR, January 27, 1984.

Ms. PAT LAWRENCE,
Housing and Consumer Interest Subcommittee,
Washington, DC.

DEAR MS. LAWRENCE: This has to do with our telephone conversation of January 27, 1984, wherein I alluded to certain practices of Martha McSteen.

The claimant in this particular instance is a twenty-two (22) year old retarded lady that I found to be disabled.

Martha McSteen wrote the attached secret letter to the Appeals Council. She went to the merits of the case in violation of P.O.M.s. Section, T7166.4(b) which provides there be "no judgment factor involved".

The Appeals Council then violated Regulation 416.1473 in treating the McSteen letter as evidence with no notice to the claimant or her representative payee.

After another hearing, the benefits were paid but there was a delay of over a year.

There have been many others like this.
Sincerely,

JERRY THOMASSON,
Administrative Law Judge in Charge.

Attachment.

I, Debbie A. Grantham, hereby authorize Jerry Thomasson to release any and all information concerning my Social Security case to whomsoever he sees fit.

DEBBIE A. GRANTHAM.

[Memorandum, November 18, 1981]

To: Director, Office of Appeals Operations, OHA.
From: Regional Commissioner, SSA Dallas.
Subject: Request for Appeals Council Review for ALJ's Decision of, October 7, 1981 Debbie A. Grantham 431-06-8153-ACTION.

We are requesting a review of the attached Administrative Law Judge's decision on the basis that the presiding officer's action, findings or conclusions are not supported by substantial evidence.

The attached critique outlines the basis for the ALJ decision, a description of the case findings, and our reasons for disagreement with the decision. We believe that the above individual is not under a disability as defined in the Social Security Act and recommend that you consider reopening this decision in accordance with Regulation No. 416.1477. If you decline to take further action, please return the folder to the Dallas Regional Office.

Any questions concerning this case may be directed to Delores Lambert, Disability Programs, at FTS 729-4281.

MARTHA A. MCSTEEN.

[Memorandum, August 24, 1983]

To: Director, Office of Appeals Operations, OHA.
From: Regional Commissioner, SSA Dallas.
Subject: Request for Review of Administrative Law Judge's Decision Dated July 18, 1983, Re: Ruth Odom, 429-94-1164—ACTION.

In his decision, the Administrative Law Judge (ALJ) found "The undivided interest of the claimant in the land involved herein is not of sufficient value to preclude her from entitlement to Supplemental Security Income Benefits."

In 20 C.F.R. S416.1201, resources are defined as:

. . . For purposes of this Subpart L, resources means cash or other liquid assets or any real or personal property that an individual (or spouse, if any) owns and could convert to cash to be used for his support and maintenance. If the individual has the right, authority or power to liquidate the property, or his share of the property, it is considered a resoure. If a property right cannot be liquidated, the property will not be considered a resource of the individual (or spouse)."

There are three factors that must be considered before a determination can be made that a property or property right is a resource. First, ownership; second, liquidity; and finally, value.

Ownership.—Ownership, in this case, is determined by the Arkansas statutes regarding descent and distribution. The claimant alleges a one-ninth ownership interest in this intestate property. The March 1983 brief filed by the Legal Services of Arkansas also alleges a one-ninth ownership interest. However, the brief does state that two of Ms. Odom's siblings, co-inheritors in the first line of inheritance, are deceased and left no heirs. Arkansas' descent and distribution laws would devolve their unassigned and uninherited interests to the remainder of the siblings in the first line of inheritance. Thus, even though a one-ninth interest is uncontested, Ms. Odom quite possibly has a one-seventh ownership interest.

Liquidity.— Arkansas Legal Services and the Administrative Law Judge contend that Ms. Odom cannot sell her share of the property without expensive probate proceedings. They further contend that all of the other heirs, in the first, second and subsequent lines of succession must be contacted and they must consent to the probate. It is true that Arkansas statutes state that title to real property is not assigned until the intestate property is probated. Thus, Ms. Odom cannot sell one acre of the property until the estate of her father is probated.

However, the resource at issue here is not the land but Ms. Odom's ownership interest in and right to the land. We contend that the inclusion of the term "property right" in the regulations includes this ownership interest To state that no real

property ownership interest can be liquidated until an estate is probated would mean that a significant portion of rights to non-home real property could never be considered a resource. It is very common, and seems almost traditional, that intestate property remains unprobated for several years. We believe it was the intent of the Secretary, as evidenced in the regulations, that this "property right" be considered a resource.

The next question to resolve is whether the property right can liquidated under State Law. We believe the attached Regional Attorney's opinions Clearly state that various undivided ownership interests, such as life estates, remainderman interests, or simply part ownership can be transferred to third parties without consent of or danger to the other heirs. This private transaction between an heir and a third party means simply that the third party assumes the seller's place in anticipation of distribution.

Thus, the ownership interest can be liquidated without court action or consent of the other heirs, and is a resource according to the regulations.

Valuation.— The only evidence in file as to the current market value of the ownership interest of Ms. Odom's is a Report of Contact with a realtor, dated October 8, 1982, which states that "the entire property would be worth $66,000 and that Ms. Odom's ownership interest could reasonably be valued at $5000 . . . even if legal action had to be taken."

It is clear from the amounts and the wording of the estimate that the realtor recognized that a buyer of Ms. Odom's ownership interest would eventually have to pursue probate in order to realize the land. However, despite this consideration, he still estimated the interest to be worth $5000.

The realtor's opinion is the only evidence in file and has not been disputed by any other evidence except a tax assessment notice issued in 1981. Conway County, Arkansas has not reassessed property since 1958, thus the evaluation of $14,000, on the tax assessment is not current. See the attached Arkansas reappraisal schedule on this issue. The ALJ states the tax assessment is the only "objective" evidence. However, the Regulations define current market value as ". . . The price that an item can reasonably be expected to sell for on the open market in the particular geographic area involved; minus (ii) any encumberances." Thus, the statement of the realtor is the only evidence that fulfills the requirements of the regulations.

Since the realtor's statement is the only evidence in file, it must be relied on unless discounted or disproven by other evidence.

Thus, we recommend that you consider reopening the decision of July 1983, in accordance with the authority provided in Regulation No. 16, sections 416.1463–416.1415 and 416.1487–416.1494.

MARTHA. A. MCSTEEN.

Attachment.

[Memorandum, December 8, 1983]

To: Appeals Council.
From: Sydney I. Green, M.D.
Subject: Leo Dye, SSN: 431-21-3264.

I have reviewed the medical evidence. I have the following comments.

Claimant is quite young. The reports from Dr. Stevenson Flanigan, M.D., neurosurgeon, begin March 13, 1982 and carry considerable weight as he is Professor of Neurosurgery at the University of Kansas (Exhibit 15). He suspected a lumbar disc condition affecting the L5 nerve root. The myelogram was reported negative by the radiologist, Exhibit 9, while the CAT scan was considered positive at the L3–4 level, Exhibit 9. This is further interpreted in Exhibit 16, with the same myelogram now interpreted positively at the L3–4 level. Clinical findings are in Exhibit 15 with normal reflexia and only mild straight leg raising signs. This does not exclude clinically a disc lesion at the L3–4 level. However, Dr. Flanigan's reports seem directed to claimant's previous heavy work activities (timber cutting). In Exhibit 16 the claimant is walking three miles. In Exhibit 17, now June 1983, claimant "now . . . capacity . . . to dorsiflex the ankle . . ." but I cannot find this loss in the prior reports except "some weakness . . . of the great toe . . ." although the claimant had reported to Dr. Flanigan that at some point before Dr. Flanigan first saw him he had been unable to walk on the heel (Exhibit 15, page one, paragraph three). There are positive straight leg raisings on the right and now the knee reflexes are diminished. The claimant has the alarming symptom of sensation produced far distally on simple flexion of the neck. There is some emphasis on sphincter functions and particularly on sexual functions, and in Exhibit 21, page two, "History," paragraph one, this concern is to the extent that claimant believes that he has been advised "to

have the rest of his family as soon as possible"—presumably before this function dies away completely.

I find Dr. Flanigan's reports somewhat vague and inconclusive from the viewpoint of the claimant's capacity for light work on a sustained basis. I recommend an additional neurosurgical evaluation and form M13 is submitted. If this is in the claimant's favor, an onset in March of 1982 would be accepted.

[Memorandum]

To: Appeals Council.
From: R.E. Nerthling.
Subject: SSN: 429-56-2567.

I have reviewed all available medical evidence in the subject case and have the following comments:

Subject male claimant, born August 19, 1930, and previously employed as a automotive mechanic, originally received Social Security Disability Benefits beginning August 13, 1976, primarily for low back infirmities. Following a consultative examination performed in September 1982, he was deemed capable of SGA at State Agency level. In a decision rendered July 20, 1983, an Administrative Law Judge found the claimant to meet Social Security Listing 1.05C, thereby reversing the Cessation, and continuing benefits. In accordance with the Bellmon Review process, I have been asked by the Appeals Council to review the medical evidence and relate my views.

From an objective standpoint, the record is devoid of objective evidences of low back pathology other than for X-rays revealing a narrowing of the L5–S1 disc space with sclerosis of the disc itself and minor evidences of osteoarthritis. Both the examination which lead to the proposed Cessation, and the examination obtained by the claimant's legal representative in rebuttal of the Cessation action reveal a tense, apprehensive examinee complaining of low back and upper left leg discomfort aggravated by walking, bending, stooping, leaning, etc., and particularly by sitting for prolonged periods. There are clearly no objective evidences in either examination of significant motor, sensory, or reflex deficit of sufficient extent as to nearly satisfy Social Security Listing 1.05C. There has been virtually no progression of X-ray positivity in the 1979–1983 interval. Although myelogram, EMG studies and possible decompression laminectomy was advised by orthopaedic surgeon, Ted Honghiran, M.D., as early as 1979, there is no indication that these were ever accomplished.

Based on the X-ray reports and objective evidences listed by G.H. Kimball, M.D. and Dennis Berner, M.D., dated September 22, 1982, and February 9, 1983 respectively, I must consider that this claimant is, or should be, capable of sustained light work activity, provided only that short periods of seated rest are permitted at infrequent intervals throughout any work day, and that operation of foot controls using the left lower extremity are not required.

Should the Appeals Council wish to remand this case to the Administrative Law Judge for consultative examination so that allegations of lumbar radiculopathy can be either confirmed or dispelled, I would suggest that such an examination be requested of a board certified neurosurgeon who has not previously attended the claimant, and that the examiner be permitted to obtain whatever diagnostic measures, including CT scan and EMG/NCV studies, etc., that he deems necessary in enabling him to arrive at an accurate appraisal. Should this be the desire of the Appeals Council, I have prepared the appropriate M-forms.

REQUEST FOR MEDICAL COMMENTS

☐ Disability Branch ☐ Request for Review ☐ Comprehensive Review ☐ Civil Actions Branch ☐ New Court Case ☐ Court Remand

TO: (Medical Consultant or Psychologist)

SIGNATURE AND DATE: Richard Smith 8/11/83

REVIEWER AND DATE:

DOB: 8/19/30

ALLEGED ONSET DATE (WHERE APPLICABLE): 8/13/76

DATE E/D LAST MET (WHERE APPLICABLE): 3/31/81

PERIOD OF ISSUE: 9/82 and Continuing

☐ Initial Entitlement ☒ Cessation

☒ New Referral ☐ Prior Referral

☒ Title II ☐ Title XVI

EVALUATION NEEDED ON BODY SYSTEM(S) INDICATED

SKIN	EENT	(MS)	PSYCH	ENDO	CV (SS)
GU	MALIG	RESP	GI	N	HEMIC & LYMPH

☒ Request for medical comments where a consultative examination may not be needed. Please see reverse side.

☐ We are proposing a recommendation to the Appeals Council that additional medical evidence be obtained. It is believed that (a single consultative examination with special tests or studies) (multiple examination) (is) (are) needed concerning the body system(s) indicated above. If you agree please enclose the modified "M" attachment showing the special tests or studies needed, or check the boxes below if multiple examinations are needed. If multiple examinations are recommended please delete any duplicate tests or studies on the "M" attachments. Under "Pertinent Factors" on reverse side, we have included a statement of need for CE(s) with reference to pertinent exhibits.

☐ M-1	☐ M-4	☐ M-6	☐ M-9	☐ M-12
☐ M-2	☐ M-5	☐ M-7	☐ M-10	☐ M-13
☐ M-3	☐ M-5A	☐ M-8	☐ M-11	☐ Other (Attached Paragraphs)

Also, please indicate below if the claimant should bring the following to the exam:

☐ Glasses or Contact Lenses ☐ Sample(s) of currently prescribed medicine

☐ Artificial limb or other prosthetic device ☐ Back Brace ☐ Hearing Aid

☐ Other (Explain) _____

Any additional remarks: _____

_____ Medical Staff

_____ Date

(THIS SIDE TO BE COMPLETED BY ANALYST WHERE APPROPRIATE)

EDICAL TESTIMONY AT HEARING:

None

Medical Advisor ☐ See notes on left side of AF. ☐ See p. ____ of (transcript) (hearing decision)

Other (Claimant's physician, CE) ☐ See notes on left side of AF. ☐ See p. ____ of (transcript) (hearing decision)

ERTINENT FACTORS (E.G., MEDICAL HISTORY, DAILY ACTIVITIES, TESTIMONY, ETC.):

The ALJ determined Clmt continues to be disabled due to severe deteriorating disc and blindness in the left eye. Further, found the severity of Clmt's impairments meets the requirements of section 1.05 C(1) + (2). However it appears that the objective medical evidence of record does not support this conclusion of the ALJ.

EDICAL QUESTION OR PROBLEM:

Kindly review and comments will be appreciated.

1) Does the Clmt's impairments meet or equal the severity of the listings? If so, which and which listing number?

2) If the listings are not met or equalled, what functional limitations are imposed in the Clmt's capacity for standing, bending, walking, stooping, lifting, climbing, carrying, reaching, etc.? PS. provide a approximate RFC.

3) If the medical evidence is not adequate is further development necessary? If so, pls provide specifics. "M" Frank

REQUEST FOR MEDICAL COMMENT

1. [X] Disability Branch [ ] Request for Review [ ] Comprehensive Review [ ] Civil Actions Branch [ ] New Court Case [ ] Court Remand

2. CLAIMANT OR APPLICANT & SSI CLAIM: Spurlin Carver

3. SSN: 429-56-2567

4. DOB: 8/19/30

5. ALLEGED ONSET DATE (WHERE APPLICABLE): 8/13/76

6. DATE E/R LAST MET (WHERE APPLICABLE): 3/31/81

10. PERIOD AT ISSUE: 9/82 and Continuing

A. ANALYST AND DATE: Richard Smith 5/11/83

B. REVIEWER AND DATE:

7. [ ] Initial Entitlement [X] Cessation [X] New Referral [ ] Prior Referral [X] Title II [ ] Title XVI

11. EVALUATION NEEDED ON BODY SYSTEM(S) (CIRCLE)

SKIN	EENT	(MS)	PSYCH	ENDO	CV (SS)
GU	MALIG	RESP	GI	N	HEMIC & LYMPH

12. [X] Request for medical comments where a consultative examination may not be needed. Please see reverse side.

13. [ ] We are proposing a recommendation to the Appeals Council that additional medical evidence be obtained. It is believed that (a single consultative examination with special tests or studies) (multiple examination) (is) (are) needed concerning the body system(s) indicated above. If you agree please enclose the modified "M" attachment showing the special tests or studies needed, or check the boxes below if multiple examinations are needed. If multiple examinations are recommended please delete any duplicate tests or studies on the "M" attachments. Under "Pertinent Factors" on reverse side, we have included a statement of need for CE(s) with reference to pertinent exhibits.

14.

[ ] M-1	[ ] M-4	[ ] M-6	[ ] M-9	[ ] M-12
[ ] M-2	[ ] M-5	[ ] M-7	[ ] M-10	[ ] M-13
[ ] M-3	[ ] M-5A	[ ] M-8	[ ] M-11	[ ] Other (Attached Paragraphs)

15. Also, please indicate below if the claimant should bring the following to the exam:

[ ] Glasses or Contact Lenses [ ] Sample(s) of currently prescribed medicine

[ ] Artificial limb or other prosthetic device [ ] Back Brace [ ] Hearing Aid

[ ] Other (Explain) _____

16. Any additional remarks: _____

EXHIBIT NO. C-20(2-) PAGES

Medical Staff _____ Date _____

(THIS SIDE TO BE COMPLETED BY ANALYST WHERE APPROPRIATE)

7. MEDICAL TESTIMONY AT HEARING:

☒ None

☐ Medical Advisor ☐ See notes on left side of AF. ☐ See p. _____ of (transcript) (hearing decision)

☐ Other (Claimant's physician, CE) ☐ See notes on left side of AF. ☐ See p. _____ of (transcript) (hearing decision)

8. PERTINENT FACTORS (E.G., MEDICAL HISTORY, DAILY ACTIVITIES, TESTIMONY, ETC.):

The ALJ determined Clmt continues to be disabled due to severe deteriorating disc and blindness in the Rt eye. Further, found the severity of Clmt's impairments meets the requirements of section 1.05 C (1) + (2). However it appears that the objective medical evidence of record does not support this conclusion of the ALJ.

10. MEDICAL QUESTION OR PROBLEM:

Your review and comments will be appreciated:
(1) Does the Clmt's impairments meet or equal the severity of the listings? If so, when and which listing number?
(2) If the listings are not meet or equalled, what functional limitations are imposed on the Clmt's capacity for standing, bending, walking, stooping, sitting, climbing, carrying, reading, etc.? (Pls. provide a maximum RFC.)
(3) If the medical evidence is not adequate is another consultative assessment necessary? If so, pls provide modified "M" form.

[Memorandum, May 23, 1984]

To: All SSA Executive Staff.
From: Deputy Commissioner for Programs and Policy.
Subject: Planning in SSA—Litigation Management Project—ACTION.

The attached draft project statement describes a project on litigation management which I am establishing at the Deputy Commissioner level. Sandy Crank is the Executive Manager for the project and Karen Wilson has been designated Project Director. In her absence, Bob Adams will serve as Project Manager. Because of timing, this project was not included as one of the Commissioner's objectives, but we have her full support and commitment. She has indicated that she considers the project to be as significant as the eight projects already designated at her level.

We are facing a major crisis in litigation with unprecedented numbers of cases and an extremely poor climate in the courts. The purpose of the Litigation Management Project is to reassess the entire litigation process in order to improve case processing and to assure that the substantive positions taken in the cases are sound.

We would like your comments on the attached project statement so that we may fully address your concerns and accurately reflect current problems and initiatives. Although the time is short, we would like to receive your comments by close of business June 8, 1984. You may forward them directly to Karen Wilson, 900 Altmeyer, extension 72312 (FTS 987-2312). We will use this project statement to begin our work, but do not want to go too far before we have your thoughts.

ROSE GRUM JOHNSON,
(For Louis D. Enoff).

Attachment.

LITIGATION MANAGEMENT PROJECT STATEMENT

ISSUE

There is a crisis in SSA's litigation process, resulting in large part from an enormous number of pending and new cases and compounded by an adverse judicial climate. The litigation process was not designed to handle the current volume of cases in it. As a consequence, SSA is not as responsive as it should be and accordingly, the agency's credibility before the federal courts is at an all-time low. In addition, there is judicial hostility toward some of the substantive policy positions advanced by SSA in defending the cases and implementing decisions. Action must be taken to improve the efficiency of case processing and to assure that SSA's substantive position in these cases in consistently sound.

FACTS

I. General

28,000 new court cases are projected for fiscal year 1984.

48,000 court cases are currently pending.

Over 100 disability class actions are currently pending.

There is a dramatic increase in the number of motions to hold the Secretary in contempt, including at least one case of criminal contempt.

There are 70 interim payment court orders for January-April, 1984, as a result of SSA's failure to answer the complaints timely. This compares with a total of 56 for all of calendar year 1983. An even more dramatic comparison: there were 5 interim payment orders for the first quarter of calendar year 1983; 53 for the first quarter of 1984.

The number of attorney fee petitions has risen dramatically: In calendar year 1983, over 95,000 fee petitions were processed—an increase of about 20,000 from the previous year.

An ever-increasing number of Equal Access to Justice Act (EAJA) awards involving a large amount of money ($564,696.87) has been awarded to date and $1,128,363.94 is pending) are resulting from findings that SSA's position in the litigation "was not substantially justified." This is a reflection of the courts' hostility and calls into question the positions that SSA is taking in these cases.

A great deal of adverse publicity surrounds many of Social Security litigation cases and court orders are written in increasingly hostile terms. Much of the criticism concerns how the Secretary implements orders. Judge Kane from Denver stated that the Secretary's actions "reveal a clearly rebellious frame of mind." Judge MacMillian, Eighth Circuit, wrote: "I have no wish to invite a confrontation with the Secretary. Yet if the Secretary persists in pursuing her non-acquiesence in

this circuit's decisions, I will seek to bring contempt proceedings against the Secretary both in her official and individual capacities."

II. Problems in litigation process

A. Individual court cases

1. Answer Stage

Preparation of the administrative transcript and filing of the answer to the complaint are in many instances not done in a timely manner, primarily because of problems with lost and inaudible hearing tapes; lost case folders.

A consequence of the inability to respond promptly is that courts are ordering many remands for new hearing which present an additional major workload in OHA.

Answers are filed routinely without substantive assessment of defensibility.

2. Briefing Stage

While some cases may be referred to the Appeals Council for possible remand, in most instances, briefs are filed without sufficient assessment of defensibility. Thus, there is a growing impression in the courts that SSA will defend any case, no matter how poor the facts. This has seriously undermined SSA's credibility. Moreover, when SSA defends a policy in court, its position is seriously weakened when the case is one in which the record is questionable or the facts are overwhelmingly sympathetic to the claimant.

Briefs are essentially pro forma; argument are not tailored to the specific points raised by the plaintiffs. This is primarily a result of the large volume of cases and because, unlike other types of litigation, the defendant files before plaintiff.

3. Appeal Stage

Largely due to the huge volume of adverse decisions, not all cases are reviewed in depth to determine whether or not the agency wants to appeal. Consequently, some cases which present significant policy issues or other problems are not identified for appeal.

Even once a case has been identified, it is often difficult to convince the Department of Justice to appeal.

4. Implementation of Court Orders

Remands:

Again, because of volume, remands are often not handled in a timely manner.

Remand orders are often not in accord with SSA rulings and other policy and thus, present a serious problem for the agency.

Reversals:

Currently, it can take up to 30 days for OGC to receive court decisions from the U.S. Attorneys.

The Department of Justice requires SSA to wait 60 days (the appeal period) before implementing court orders, even in routine cases where it is clear that there will be no appeal. Accordingly, OGC will not authorize SSA to process effectuations during the appeal period.

There is excessive folder movement in the litigation process. As a result, when a court order needs to be implemented, a problem often exists in locating the folder.

The process of implementing concurrent title II/title XVI disability cases is particularly complicated and cumbersome, involving ODO and the DO's as well as the Underpayment Review Section. This very often results in lengthy delays in effectutation of the full amount of benefits due.

5. Attorney fees

In some cases, attorney fees are not timely processed—often, because of delays in getting past-due benefit summaries. While the percentage of problem cases may not be extremely high, attorneys often bring these cases to the attention of the court, resulting in further undermining of SSA's credibility.

The current process of assessing attorney fee petitions is unduly complicated and time consuming. It requires individual analysis of services rendered in each case to determine the proper fee.

B. Class action cases

1. Preliminary Injunction/Temporary Restraining Order Stage

SSA sometimes does not implement these orders properly and on time; e.g. teletypes with implementing instructions may be incomplete or delayed.

The question of appeal of these orders may not be fully explored.

2. Settlement

Often the possibility of settlement is not fully considered, to some extent because of heavy workloads. However, defensiveness on SSA's part is another factor which cannot be discounted. Also, there is no efficient process for promptly agreeing to and implementing a policy change in order to settle a case.

3. Discovery (requests for production of documents, interrogatories, depositions)

The major problem is the huge volume of these request—with each request often seeking hundreds of pieces of information which is not readily available.

Since plaintiffs often are trying to prove class numerosity, responding to discovery frequently involves complex, costly systems identification or, alternately, time-consuming, manual folder searches.

Often plaintiffs suspect clandestine policies and submit extremely burdensome requests for documents or other information. Sometimes they file both discovery and Freedom of Information Act (FOIA) requests which proceed on different tracks, causing confusion and inconsistencies.

There is a lack of good record-keeping so that SSA often develops new information to answer a request which is very similar to a previous request.

4. Defense/Argument Stage

Because of volume and the nature of the issues involved, the quality of our defense in some cases could probably be improved. In particular, some regional attorneys and assistant U.S. Attorneys may not be totally familiar with the background and rationale for the policies they are defending.

There are also difficulties in getting information with which to defend; e.g., folders often cannot be located or SSADARS may not have the neessary information; needed data may not be available routinely and would require costly systems runs to secure, etc.

5. Appeals Stage

As in individual cases, there may be difficulty convincing the Department of Justice to appeal class actions.

C. Implementation of Orders

As in individual cases, there may be delays in receiving the order.

There is no clear final responsibility within SSA for interperting court orders, including identification of relevant class members. In some cases SSA's interpretations have proven not to be supportable in court.

Implementation often involves systems runs as well as the preparation of complex, lengthy instructions and notices to class members. Due to systems limitations, the class is frequently over-identified, resulting in non-class members receiving notices. The Office of Policy (OP), the Office of Systems (OS), the program component, Operations, and field components all have a role. There is sometimes confusion, lack of coordination and delays in implementation of the orders.

Recently, probably because of the hostile attitude of many courts, there is a trend toward complex court orders with incredibly short timeframes. For example, in *Polaski,* SSA was given 24 hours to implement an order.

III. Management Information/Analysis

There is a lack of substantive analysis of litigation issues and trends.

Statistical information, particularly with respect to remands and court affirmations, is unreliable. There is some dispute with respect to responsibility for remand statistics between OHA and OP. There is apparently a backlog of affirmation orders in OGC so that SSA does not have a reliable count.

OBJECTIVES

Reassess the litigation process in order to improve case processing and to assure that the substantive position taken in these cases is sound.

Make specific recommendations for improvements.

Oversee implementation of approved recommendations. Ideally, this should result in a decreased number of active litigation cases, better handling of those cases, and, improved relations with the federal courts.

ACTIVITIES RECENTLY COMPLETED OR UNDERWAY

OP is currently developing an Action Plan to implement the management review of its litigation function to see what changes, if any, are necessary and to see that adequate resources are allocated to this function.

OP is in the process of automating the tracking of the implementation of court orders. When operational, the system will track all adverse court orders to assure that either an appeal is entered or an effectuation memo is received and that all effectuation memos are implemented.

OP is reviewing all written procedures in the litigation area and making changes as appropriate to assure that all staff involved in the process are sensitized to the importance of expeditious handling. The POMS procedures on subsequent applications are currently being revised.

OP is asking OGC to explore with the Department of Justice the issue of the need and basis for the 60-day requirement before effectuation of an order.

OP is looking into the feasibility of having the U.S. Attorneys' offices send copies of court orders directly to the Litigation Staff at the same time they are sent to OGC. There is already such an arrangement with the U.S. Attorney in Kansas City.

An intercomponent workgroup was convened by Sandy Crank to design a pilot project to identify court cases which are poor prospects for defense and to develop a process for removing them from court.

OHA has taken a number of steps to improve processing at the answer stage: Hiring additional employees to prepare Appeals Council decisions in court remands, to prepare transcripts, audit hearing tapes and correct transcripts; modularizing branches in the Office of Appeals Operations (the component which makes recommendations to the Appeals Council on claimant appeals) to include a mini-docket and files unit in each branch; tighten up on case control following Appeals Council final action; using new procedures to insure handy file retrieval when a civil action is filed; issuing a memorandum to all hearing officers outlining detailed procedures on how to properly record hearing testimony taking the lead in deciding to make the hearing tape a permanent part of the claims file. OHA is in the process of installing more computer terminals to insure immediate access to SSA computers showing the location of case files; scheduling more training in the use of recording equipment and exploring the possibility of obtaining better quality tapes and equipment.

At the Commissioner's request, OMBP industrial engineers have recently completed a review of folder movement within OHA centrally and between OHA and its hearing offices. This report, with recommendations, has been submitted to the Commissioner. They plan to study folder movements between OHA and other operating components in the near future.

A Notice of Proposed Rule Making is pending which would greatly simplify the attorney fee process and save considerable workyears in OHA and ODO.

OGC is conducting a thorough review of its docket room operations with a view to developing recommendations on how to streamline processing.

OGC is also developing a computer system with terminals in central office and the regions which would track litigation cases.

ACTIVITIES PLANNED

Reassess all aspects of the SSA litigation process in SSA, OGC, and the Department of Justice, both centrally and in the regions. This review includes both substantive and procedural components of the process.

Review all current activities and assure that they are still appropriate and properly coordinated.

Develop a mechanism(s) to ensure better coordination, communication and understanding among all SSA, OGC and the Department of Justice components involved in the litigation process.

Review the allocation of resources and responsibility within the litigation process and recommend reallocation or realignment as necessary.

Study folder flow in the litigation process (from the answer stage to implementation) to minimize movement, thus reducing risk of loss and processing time.

Implement Phase I of the project on court cases which are poor prospects for defense. This essentially involves the regional attorneys, at the briefing stage, referring cases to a central office review panel which will assess them. The purpose of this project is to refine identification criteria and to test the process; cases would continue in litigation.

Develop a procedure so that SSA reviews briefs prior to filing in the most significant cases to ensure that they adequately reflect and defend SSA's policies. Explore the possibility of model briefs on significant issues.

Establish a process to assure that the possibility of settlement is fully explored in appropriate cases.

Consider meeting with the Department of Justice to discuss improving handling of SSA's cases.

Streamline the process of effectuating concurrent title II/XVI court orders.

Develop and implement procedural changes that assure timely communications with U.S. Attorneys' offices as well as prompt transmission of court documents to OGC and SSA.

Review SSA's policy with respect to application of circuit court procedents.

Develop a record-keeping system to keep track of information developed to respond to discovery, to prepare briefs and to respond to other segments of the litigation process.

Evaluate the possibility of a comprehensive computer system which would track litigation cases, providing a thorough case history which would incorporate SSA-DARS, OHA, and litigation information.

Ensure that substantive analysis of litigation issues and trends is performed and develop a vehicle for furnishing such information to the Commissioner briefly and on a timely basis.

PROJECT ORGANIZATION

Executive Manager (EM)—the Associate Commissioner, OP has been designated by the Deputy Commissioner for Programs and Policy (DCPP) to serve as the EM of the Litigation Management Project. The EM provides overall leadership and oversight of the project.

Project Director (PD)—The EM will designate a full-time PD for the Litigation Management Project. The PD will have a full-time project staff to assist in the effort. The PD is responsible for the development, implementation and tracking of initiatives established under the project.

Project Managers (PM's)—The Deputy Commissioners for Systems, Operations Management and Assessment and the Assistant General Counsel, as well as the Associate Commissioners for OHA, OD, OSSI and ORSI, will designate PM's. The coordination of project initiatives among the various components is the responsibility of the PM's. These PM's should be acceptable to the EM and DCPP.

Project Methodology—The PD, working with PM's, manages and coordinates all phases of the project calling upon resources throughout SSA that are necessary to complete the project. The PD provides written and oral briefings to the EM, DCPP, and other members of the SSA Executive Staff.

A description will be prepared for each recommended initiative detailing the objective to be accomplished, manner of accomplishment, due dates for completion of work activity, components affected (including position types), cost of implementation, savings to be achieved and/or other benefits to be derived. Project initiatives may be added, deleted or revised upon recommendation by the PD and PM's and approval by the EM and DCPP. Monitoring of initiative activities will be accomplished by meetings and telephone to the maximum extent possible.

Chairman PICKLE. Now we have one other statement.

It is from our beloved former colleague here, Mr. Corman, representing the National Committee to Preserve Social Security and Medicare.

STATEMENT OF HON. JAMES C. CORMAN, FORMER MEMBER OF CONGRESS, ON BEHALF OF HON. JAMES ROOSEVELT, FORMER MEMBER OF CONGRESS, AND CHAIRMAN, NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE

Mr. CORMAN. I am an attorney practicing law in this city, and the National Committee to Preserve Social Security and Medicare is one of my clients. They are one of my favorite clients because they pay me now to do the same thing I used to do when I sat up there by you on the committee, and that is to work to preserve the benefits for Social Security recipients, both as to their cash payments and their medicare.

We support creating an independent agency pretty much along the lines suggested by former Secretary Wilbur Cohen. We are very concerned about medicare also being administered by that new agency within some reasonable period of time because we think it so important that we underscore the difference between social insurance programs and other kinds of benefits programs that are administered by at HHS.

We would agree that SSI, which is a welfare program, should be transferred with SSA primarily because of administrative considerations, but medicare itself is an insurance program and must be transferred with SSA.

It ought to be kept fiscally sound as an insurance program. As was mentioned earlier, from the point of view of the beneficiaries, they cannot separate out their benefits between those directed to their health care and the rest of their living standards.

Mr. Chairman, I submit a statement by James Roosevelt. I am sure that the full statement will be of interest to the members of the committee.

[The statement of Mr. Roosevelt follows:]

STATEMENT OF FORMER CONGRESSMAN JAMES ROOSEVELT, CHAIRMAN OF THE NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE

I am James Roosevelt, Chairman of the National Committee to Preserve Social Security and Medicare. The National Committee is a nationwide, nonprofit, tax-exempt organization founded in the District of Columbia late in 1982. Its membership now totals approximately 624,000, many of whom are Social Security and Medicare beneficiaries. The purpose of the National Committee is to protect the Social Security and Medicare programs, and to preserve the social insurance principles upon which these programs were founded.

The Social Security Act enacted in 1935 was a landmark bill. It permanently altered the concept of personal economic security in this country and initiated the Federal government's income support responsibilities for the elderly, unemployed, disabled, and indigent. This legislation established a contract between the Federal government and the people of this country, and a contract between the workers of today and those who preceded them in the work force. This contract promises and must assure a decent retirement income, protection if disability strikes and, since the addition of Medicare in 1965, basic and dependable health insurance coverage for the elderly and disabled.

Social Security and Medicare, the two Federal social insurance programs contained in the present Social Security system, constitute a major achievement of this great nation. No other set of programs has affected and improved the quality of life of so many Americans. The National Committee is dedicated to preserving the social insurance principles of these two programs, to protecting and improving their financial soundness and benefit adequacy, and to improving the administration of Social Security and Medicare.

The National Committee commends Chairman Pickle and the other members of this Subcommittee for calling these hearings. We also commend the members of the

Congressional Panel on Social Security Organization for the report and recommendations that are the subject of these hearings.

The report of the Panel contains a series of recommendations to be followed *if* Congress decides to establish the Social Security Administration as an independent agency. The National Committee to Preserve Social Security and Medicare strongly urges this Subcommittee to take the steps necessary to establish Social Security as an independent agency. This is the essential point of my testimony today. We urge you to develop and approve legislation that will establish an independent agency that is capable of effectively administering, preserving, guiding, and improving the social insurance programs that are so vitally important to the well-being of senior citizens in this nation.

The National Committee supports an independent Social Security Agency for several reasons. We believe this would more effectively insulate these critical programs from partisian politics and sudden, ill-conceived, inadequately considered, and inappropriate changes. The permanence of Social Security and Medicare, as well as the need to provide adequate funding and benefits and to maintain the social insurance basis for eligibility, should not be matters for political debate. These programs are permanent, essential, and basic elements of our economy. Americans should not feel threatened with sudden and dramatic changes in benefits or eligibility requirements because of a change in Administration or party control of Congress. To the contrary, they should feel assured that these programs, the benefits they provide and the basis for eligibility, will remain stable, predictable, and adequate, despite changes in government.

The National Committee believes that an independent agency responsible for administering the Federal social insurance programs will be able to more effectively concentrate on the unique goals of the Social Security and Medicare programs. This greater ability to concentrate on the specific needs of the elderly and disabled and the specific objectives, problems, and demands on the Social Security and Medicare programs, should enhance the ability of the agency to deal with current administrative problems as well as plan and be prepared for future changes and challenges.

The National Committee agrees with the Panel recommendation that the Social Security and Supplemental Security Income (SSI) cash programs should be administered by the independent agency. We disagree, however, with the Panel's recommendation on Medicare. The National Committee believes that Medicare should be transferred to and administered by the new independent Social Security Agency. In other words, the new independent agency should have responsibility for Social Security and Medicare, the two basic Federal social insurance programs, as well as the closely linked and integrated SSI program.

For practical and philosophical reasons, Social Security and Medicare should both be administered by the new independent agency. The membership of the National Committee, many of whom are Social Security and Medicare beneficiaries, view these two programs as complimentary companion programs, inextricably linked and equally important to their well-being. Eligibility for both programs is based on social insurance principles, which to the members of the National Committee means they have earned the right to the benefits provided under these programs through the payroll contributions they have made over the years.

Social Security and Medicare are *not* and should never become "welfare" programs. It would be confusing for the Department of Health and Human Services to administer Medicare when the other programs it administers are welfare and allied programs. Also, as stated in the report of the Panel, there are important administrative links between Social Security and Medicare. It is important to our members that they are able to obtain reliable information about both programs from the same local office.

The report says that to transfer Medicare to Social Security would inhibit the new agency from achieving a primary objective for its establishment; namely, the ability of the new independent agency to concentrate its attention on improving the administration of the Social Security and SSI cash programs. The report also argues that transferring Medicare back to Social Security is particularly inappropriate at this time.

In response to these arguments the National Committee suggests that the Subcommittee give consideration to the timing of the transfer of Medicare. It most likely would be beneficial for the new Social Security Agency to have a period of time when it could focus exclusively on current deficiencies and problems with the administration of Social Security and SSI cash benefits. To accomplish this, legislation providing for establishment of the independent Social Security Agency could provide for an appropriate transition period.

The important thing is to maintain the social insurance eligibility basis for Social Security and Medicare, and, ultimately, have both programs administered by the same independent agency. The emphasis on Medicare as a social insurance program is especially important now as the nation debates health care policy. Congress must reject any attempt to disengage Social Security and Medicare or to apply "means testing" or other "welfare" elements to either program.

SSI is a nationwide, uniform program, federally financed and administered by the Social Security Administration. It is a critical and carefully integrated supplemental program to the Social Security pension program. Despite important differences between the Social Security and SSI programs, they have been carefully coordinated in terms of eligibility requirements and administrative procedures and there is significant overlap in beneficiaries. For example, over 50 percent of all SSI recipients also receive Social Security benefits. It would be administratively disruptive and create serious problems for the Federal government, states, and millions of elderly and disabled individuals to separate SSI from the Social Security Administration. For these reasons, the National Committee agrees with the report of the Panel that it should be administered by the new independent Social Security Agency.

The National Committee supports the establishment of an independent Social Security Agency because we believe it will greatly improve the service provided to senior and disabled citizens. We believe it will improve the management of the Social Security and Medicare programs in the long run as well as allow a more rapid and effective response to computer deficiencies and other immediate problems. Equally important, we believe it will improve the policy planning capacity of Social Security, and its ability to be prepared for and respond to changing economic conditions. The objective of an independent agency will be to return the Social Security Administration to its position as the "premier Federal administrative agency for operating efficiency and quality of public service" that, as stated in the report, it once was.

As is quite thoroughly discussed in the Panel report, to accomplish these objectives, the new agency must be properly organized and be granted adequate management authority and resources. A primary task of this Subcommittee will be to develop a plan that will insure that an independent Social Security Agency has the appropriate organizational structure and the necessary management authority and resources to effectively administer the Medicare, Social Security and SSI programs. The worst thing would be to establish a new independent agency with inflated promises and inadequate resources.

The National Committee is aware that not everyone agrees with the organizational structure suggested in the Panel's report. With regard to the organizational structure and the specific authority and resources of the independent agency, we urge the Subcommittee to pay special heed to the recommendations and advice of former Secretary of HEW Wilbur Cohen, former Social Security Commissioner Robert Ball and others who have spent many years developing, administering, protecting, and improving the Social Security and Medicare programs.

I thank you very much for allowing me to appear before you today and will be happy to respond to questions.

Chairman PICKLE. The statement has been made earlier today by some that they would hope that medicare be kept as a part of the overall Social Security operations. Some have recommended we separate them and if we go into the big reorganization here in the next 2 years, that we separate the program entirely.

Are you saying with respect to your testimony on medicare, that it should be kept under the Social Security Administration?

Mr. CORMAN. Yes, Mr. Chairman. We feel very strongly about that.

Chairman PICKLE. Your organization, you now have a special interest in medicare?

Mr. CORMAN. Yes. This is solely from the point of view of the beneficiaries. We have not gone into great detail about administration. You have heard from Mr. Cohen, Mr. Myers, and when you read the statement of Bob Ball you will have heard the experts on administration. Looking at it from the point of view of the beneficiaries, we feel strongly the importance of keeping the philosophy of

medicare as an insurance program. Second, the beneficiary ought to be able to go to the same place to get problems concerning their maintenance income or their OASDI check and their medicare benefits straightened out. If you have occasion to watch people who are even older than the three of us—and there are a few—one of the greatest difficulties in life is just finding out where to go to get problems solved, to be bounced from pillar to post when they are old and ill is something we should avoid as much as we can.

Mr. CONABLE. Well, one thing I would like to say is, I noted one of the earlier speakers said it was important to have them both in the same place so that people would know they were both sound. The two programs are quite different, and I think the importance is the one that you stress instead, people want to go to one place to get their questions answered. Obviously medicare is not sound now.

The trust fund is eroding rather badly and there needs to be some adjustment of some elements in it, perhaps all elements in it, in order to be sure that people will have this service available to them.

I happen to think Social Security is sound, and balanced, and whether or not it is balanced at too high a level, I expect it to be in fairly sound shape for the foreseeable future unless Congress tries to enact significant reforms in 1990 when there is bound to be a surplus in the program and use up the cushion necessary to take us well into the 21st century. That is the big threat that I see to the system now. We can't say the same thing for medicare, unless some adjustments are made.

Putting them both in the same place is no assurance that they are both sound. It is an assurance, however, that from the point of view of the beneficiary, they can go to one place and get their questions answered properly.

You say that is what we should be concerned about, about the convenience and comfort and the psychology of the beneficiary.

Mr. CORMAN. I must say I wish we felt that medicare was as sound at the moment as is Social Security. I realize there is a tremendous amount of work to be done over the next couple of years. We believe it must be approached on the same basis as the Commission approached Social Security OASDI, and that is, it is a commitment and adjustments will have to be made. But it is imperative to protect the benefits of the benficiaries.

Chairman PICKLE. The basis of your concern is that much of medicare is an insurance program, sir?

Mr. CORMAN. Yes.

Chairman PICKLE. Well, we are glad to have your statement. We are glad to have you back with us. Thank you for your statement.

That concludes the hearing today on this subject, and the subcommittee now will stand adjourned until further notice.

[Whereupon, at 4:50 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

AMERICAN FEDERATION OF LABOR AND
CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, August 8, 1984.

Hon. J.J. PICKLE,
Chairman, Subcommittee on Social Security, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The AFL–CIO appreciates the opportunity to present our views to the Subcommittee on Social Security as to whether an independent social security agency could administer that program in a fairer and more equitable manner. We believe there are strong arguments that favor a truly independent agency and we so urge.

The social security system is one of the nation's most successful achievements. In one way or another, social security affects the lives of almost every American family. For older Americans, the social security program is the foundation on which their economic security rests. The importance of this program to the nation makes it imperative that the financial integrity and non-political administration of the system be assured.

First, we believe that it is not good public administration to have this vitally important agency operate as a subordinate unit of an executive department of government. The Social Security Administration (SAA) would operate more efficiently and better meet the needs of beneficiaries and contributors if it were not hampered by the many shifts in administrative policy within the Department of Health and Human Services resulting from short-run decisions. These decisions include revisions in staffing levels and changes in management philosophy that accompany the turnover of Health and Human Services Secretaries, Social Security Commissioners and their immediate staffs.

On the basis of priorities set by the Department of Health and Human Services or the Office of Management and Budget, SSA has been deprived of needed administrative resources. These agencies have forced upon the Social Security Administration unwise actions which it would not have undertaken if it had been free to pursue a preferred course of action. The unfortunate experiences endured by tens of thousands of disability beneficiaries due to the manner in which the SSA was forced to handle the Continuing Disability Investigation (CDI) program is a noteworthy—and painful—recent example.

SSA's excellent administrative reputation has been tarnished because of an antiquated and over-taxed computer system and by insufficient personnel. A recent General Accounting Office investigation showed the agency has an embarrassingly high error rate. An independent SSA would have been able to move quickly to prevent this situation from developing into the problem it has become.

Tens of thousands of beneficiaries who made social security contributions throughout their working lives, have suffered unfair treatment or improper handling of their benefit claims. It is likely that many of these problems would not have risen had the SSA been able to make independent decisions free from the pressures of political appointees.

The AFL–CIO believes that the Social Security Administration must rigorously discharge its responsibility as trustees for those who have built up benefit rights under the system. The program must be maintained apart from political influence or manipulation geared to the ups and downs of the budget and the political process.

In order to accomplish this objective, the AFL–CIO urges that the Social Security Administration be made an independent, non-political agency separate from the Department of Health and Human Services. The Social Security Administration should be under the direction of a five-member governing board, including duly designated representatives of management and labor, appointed by the President with the advice and consent of the Senate, and with no more than three members from any one political party.

The AFL–CIO urges the Subcommittee to support an independent Social Security Administration so as to improve the operation of the program and to restore public confidence in the integrity of the system.

Sincerely,

RAY DENISON,
Director, Department of Legislation.

STATEMENT OF THE AMERICAN MEDICAL ASSOCIATION

The American Medical Association is pleased to offer its views concerning the issue of reorganization of the Social Security Administration as well as the government's other major domestic entitlement program agencies to enable them to better achieve their goals.

The Subcommittee is focusing on the recommendation of the Congressional Panel on Social Security Organization that the Social Security Administration be removed from the Department of Health and Human Services (HHS) and be established as a separate agency, akin to the Environmental Protection Agency, the Federal Trade Commission and other independent agencies.

The American Medical Association believes that simply establishing a separate Social Security Administration would not satisfactorily deal with the organizational problems of the current Department of Health and Human Services, nor would it fully exploit the range of exciting and beneficial opportunities that can come about through a different type of departmental reorganization. We believe this subcommittee has the opportunity to consider a fundamental restructuring of the Department of Health and Human Services in its review of the appropriate organizational format for social security.

We believe that there should be a recognition of the different missions of the Department of Health and Human Services: the administration of cash benefit programs, such as Social Security and Aid to Families with Dependent Children (AFDC), and the administration of medical benefit and public health programs. We believe that to carry out these diverse missions better, there should be a separate Department of Health established which would exercise responsibility over Medicare, Medicaid and Public Health Service programs (including the Centers for Disease Control and the National Institutes of Health). Until such time as a Department of Health is established, we support proposals to elevate the Assistant Secretary for Health to Under Secretary for Health within the current Department of HHS, as provided for by H.R. 5438. We do not believe that the Health Care Financing Administration should under any circumstances be transferred away from the other health functions within the existing Department of Health and Human Services.

For nearly one hundred years, the American Medical Association has advocated the creation of a separate cabinet-level federal Department of Health. While the issue has not been actively considered by Congress in recent years, it is more important now than ever before that this country gives serious consideration to the establishment at the federal level of a separate Department of Health.

Historical background.—In the early nineteenth century, the federal focus for medically-related matters was the Surgeon General of the Army and the Medical Department of the Navy. In the mid-1800s, the Public Health and Marine Hospital Service was created within the federal government; in 1913 this agency's name was changed to the U.S. Public Health Service (PHS). In 1939 the U.S. Public Health Service was merged with the U.S. Office of Education and the Social Security Board to create the Federal Security Agency (FSA).

Proposals to make FSA a Department began in 1947 with a bill which would have established a Department with three divisions: health, education and security. Each division would have been headed by an Undersecretary, and the Undersecretary of Health would have been required to be an M.D. This proposal was not enacted.

In 1949 the Hoover Commission on governmental reorganization recommended the creation of a Department to handle social security, education and welfare; it also recommended that the Public Health Service be placed in a separate non-departmental "United Medical Administration." The Truman Administration rejected this approach and unsuccessfully sought approval for two reorganization plans that would make FSA a Department.

In 1953, the Eisenhower Administration submitted a reorganization plan to create the Department of Health, Education and Welfare (HEW). It required that the Department have a Special Assistant for Health and Medical Affairs who was to be a physician with wide non-governmental experience. While AMA continued to favor a separate Department of Health, the creation of HEW was endorsed by the Association as a "step in the right direction," and AMA testified in support of the proposal. The reorganization was enacted, and HEW came into existence in April 1953.

Various reorganization proposals were suggested by commissions and private studies during the 1960s and 1070s. These ranged from proposals to break up HEW to proposals such as President Nixon's "Department of Human Resources" that would have attached other agencies in related subject areas to HEW. The only department-level reorganization with respect to HEW since 1953 was the creation in

1979 of a separate Department of Education which also changed HEW's name to the Department of Health and Human Services.

HCFA—Current and future roles.—The Health Care Financing Administration (HCFA) is responsible for administering two large and important health care programs: Medicare and Medicaid. We believe that HCFA has done a remarkably good job carrying out its responsibilities concerning these massive and important programs. We favor continued use of private intermediaries and carriers for actual claims administration. We believe, however, that HCFA's mission could be carried out more effectively if it and HHS's other health agencies were placed in a separate Department of Health or, alternatively as an interim measure, administered by an HHS Undersecretary for Health. While we recognize the value of cooperation between the Social Security Administration and HCFA, it cannot be emphasized too much that Medicare and Medicaid are *medical* programs. They should never lose this important health orientation; that is why we believe that HCFA should be organized with HHS's other health functions and elevated to higher level of organizational authority.

Need for a Department of Health.—There are many reasons warranting the creation of a separate Department of Health. A strong argument can be made that the Department of Health and Human Services is simply too big. Its proposed FY85 budget of $324 billion makes it the third-largest budget in the world, exceeded only by the budgets of the United States and Soviet Union. The Department is far bigger than all other cabinet-level federal departments. The Department employs approximately 140,000 workers in Washington and in regional offices throughout the country. Through grants and contracts it indirectly provides jobs for tens of thousands of others. Ninety-six percent of HHS budget represents entitlement spending, and millions of Americans benefiting from HHS-administered programs are affected by HHS decisions or program implementation. Both in terms of people affected and amount of dollars involved, the Department of HHS is a massive presence both in the U.S. government as well as in the American economy and society in general.

The Department is responsible for administering health and welfare programs which are the foundation of our domestic social welfare system: Social Security, Medicare, Medicaid, Maternal and Child Health and other health Block Grants, Supplemental Security Income, Aid to Families with Dependent Children, the Public Health Service, and many other programs. The importance and size of these programs combined, in relation to other federal departments, provide enough work for three or four departments. Yet, all of these functions are represented at the cabinet level by one Secretary who is responsible for the entire network of social programs.

Congress did not originally intend to create such a behemoth. When the Department of HEW was created in 1953 it had a budget of only a few billion dollars. In 1960, its budget was still under $25 billion. However, the budget has expanded more than tenfold since that time. Even the spinning off of the Education function into a separate Department had little impact on the upward climb of HHS expenditures.

It is now time to complete the process started when the Department of Education was created. It is now time to establish a separate Department of Health as well. The reasons for splitting off the health function are compelling.

The task of administering health programs such as Medicare, Medicaid, and the Public Health Service requires government officials and employees with an expertise in the increasingly-sophisticated arena of health care technology and changing delivery modes. The mission of these agencies is fundamentally different from the missions of of HHS income-security programs. The need for assuring access to quality health care to the elderly and needy, with its attending escalating costs, has emerged as a major issue on the national agenda and deserves the priority attention that would be provided by creation of a separate cabinet level Department of Health. The increasing importance and size of the health-related programs of HHS indicate the need for their own cabinet level Department and Secretary who can direct national resources and attention to health issues without the complications of administering welfare and other cash assistance programs. Federal outlays for Medicare alone, which were $1.2 billion in 1966, reached $36.8 billion in 1980 and are projected at $150 billion for 1990. Cost pressures in both Medicare and Medicaid will continue—given the projected increasing percentage of the U.S. population age 65 and older.

Separation of the health and welfare missions of HHS into two separate departments should also make more rational the Congressional budgeting process as Congres wrestles with allocations of resources in an environment marked by large deficits. If there were separate departments, choices would be clearer between the two functions, and a separate Secretary of Health could devote time necessary to

significant health functions unburdened by concerns with the cash assistance goals of the Department of HHS.

Having a separate Department of Health is not a novel idea—30 of the 50 states have deemed it appropriate to establish separate Departments of Health. Of those 30, a majority have a physician as the Director of the Health Department. We believe it is important that the Secretary of a separate federal Department of Health should be a physician. A licensed physician would have the background necessary to understand patient care and public health issues and would command the necessary respect from the health care community in confronting issues involving health professions and health facilities. A physician Secretary would also serve as a knowledgeable spokesperson on health issues before Congress, in cabinet meetings, and before the public at large.

The American Medical Association strongly advocates the creation of a separate U.S. Department of Health for all of the reasons stated above. It would provide the necessary priority focus for a large and rapidly growing segment of the federal budget and the national economy—health—which faces unique problems unrelated to the other functions of the sprawling Department of Health and Human Services.

The "Under Secretary for Health" Proposal.—At the present, the Department of Health and Human Services is headed by a Secretary with one Under Secretary of Health and Human Services. Within the Department there are seven assistant secretaries (including an Assistant Secretary for Health) as well as the Administrator of the Health Care Financing Administration and the Commissioner of the Social Security Administration. Until such time as a separate Department of Health is established, a position of Under Secretary of Health could be created to direct all of the health functions of the Department of Health and Human Services.

The American Medical Association has prepared legislation to change the designation of the current Under Secretary of Health and Human Services to Deputy Secretary of Health and Human Services and establish an Under Secretary for Health and an Under Secretary for Human Services. The Under Secretary of Health would be required to be a physician (M.D. or D.O.) and would have all of the current responsibilities of the Assistant Secretary for Health as well as the Health Care Financing Administration, all Public Health Service programs, and such other duties as prescribed by the Secretary. This legislation has bipartisan support and has been introduced as H.R. 5438 by Energy and Commerce Health Subcommittee Chairman Waxman and the senior minority member of that Subcommittee, Representative Madigan.

When President Reagan announced his intention to nominate Edward Brandt, Jr., M.D., to be Assistant Secretary for Health of HHS, the White House press release indicated that "it is the President's intention to see that this position is elevated to Under Secretary of Health in accordance with a reorganization plan that will be announced later." No such reorganization plan has been introduced as of this time. The submission of such a plan has been stalled by failure of Congress to reauthorize the executive reorganization act under which Executive Reorganizations may be promulgated for review by the Congress (which has authority to disapprove).

Conclusion.—The American Medical Association believes that in any discussion concerning major reorganization of the Department of Health and Human Services, there should be strong consideration of the merits of establishing a separate U.S. Department of Health. As we have discussed, the increasingly complex nature of medical and other health issues facing the Federal government begs for knowledgeable management and direction. Such direction and management can be provided if a separate department is created to focus on these important and sensitive issues. Until such time as a separate Department is established, we support H.R. 5438, which would elevate the Assistant Secretary for Health to the position of Undersecretary of Health, with responsibility for all health programs in the Department.

STATEMENT OF HUGH F. MCKENNA, LUTHERVILLE, MD

Initially, if you will bear with me, I would like to elaborate briefly on the 40 years experience in significant administrative positions mentioned in the title page. Starting in 1936 as a Technical Advisor trained new staff for positions as field office managers and field representatives; in early 1937 functioned as special assistant to the Chief of Field Operations and wrote the first account number manual and then as special assistant to the Director of the Bureau of Old-Age Benefits; in late 1937 to mid-1943 served as Regional Representative of the Bureau in the New York region; from 1943 to 1965 worked in headquarters in Baltimore for the then Bureau of Old-Age and Survivor's Insurance as Assistant Bureau Director in charge of Field Oper-

ations nationally; in 1965 (when Medicare came in and overall reorganization took place) title was changed to Director, Office of Field Operations; in 1967 on request of the Commissioner took over a struggling part of the organization as Director, Bureau of Retirement and Survivor's Insurance—policy and administration—the Program Service Centers were then in bad shape and I revamped them organizationally, management and space wise—so that in the recent turbulent years they have been processing bulwarks for SSA and the revised organizational structure has been adopted for central office processing operations; in late 1974 I was appointed Associate Commissioner for Program Operations. I retired in mid-1975 but operated as a consultant in 1975–76 studying and making reports proposing needed changes in the SSA approach to Executive Development and Improved Productivity.

I have studied the report on the Congressional Panel on Social Security organization and on the basis of my experience find myself in full accord with the recommendation that SSA be set up as independent agency. In my years with SSA the organization functioned more effectively under that kind of structure than it has since and there was closer association among top Bureau executives and the Executive Director as well as Board members in the days of Arthur Altmeyer, George Bigge and Molly Dewson. After the Department was established the Bureau became increasingly removed—for instance I never did meet the first Secretary, Mrs. Oveta Culp Hobby, during her term of office. As an independent agency, with the great coverage it has these days, it seems clear to me that SSA will be more effective in carrying out its responsibilities of public service and at the same time relating more closely with the Office of the President and the Congress.

As an independent agency I would also agree with the Panel proposal that SSA should be limited in its jurisdiction to the social security and supplemental security programs and that the other programs be transferred to appropriate places in the Department. As well for the present, at least, leave Medicare with HCFA in the Department.

While I agree with the Panel on the independent agency I do not agree with its proposal of an Administrator in charge but with a permanent nine-member bi-partisan Advisory Board. Organizationally, I would prefer the approach taken in the pending bills (H.R. 5904) and (S. 2778) toward setting up a bi-partisan 5 member board (I would settle for a 3 member board as was the case originally) to be appointed by the President and confirmed by the Senate with staggered terms for the board members and a chairman designated by the President. The Board would appoint a Commissioner who would serve for 5 years. To my view, it is crucial that the leadership of the Social Security Administration be on a far more consistent basis than it has been in recent years. It is also crucial that the Commissioner have far greater understanding not only of the social security program but also the management of a large nationwide organization with 36 million current SSA beneficiaries and 4 million SSI recipients than has been the case with some incumbents over the past 12 years.

I feel certain that if SSA had been operating under a bi-partisan board it would have avoided the very unfortunate problems with the disability program that have plagued it not only in dealing with the individual persons involved but also with the courts and the Congress. It has been a most disheartening period for the previously dedicated field staff of SSA. Disability is a most difficult program to administer fairly and effectively requiring as it does constant close management attention and a real understanding of the human as well as the fiscal problems involved. While I would certainly expect the enactment of the pending disability legislation to help greatly in that regard, I also believe an independent organization headed by a 3 or 5 person bi-partisan Board would also insure avoiding any possible future messes of the sort that has raised real questions in the public mind about the fairness and reasonableness of the Social Security Administration.

This brings me to the Panel outline in Chapter II on SSA's mission, challenges and problems. It is an excellent summary. However, I would add to its mention of the Grace Commission report proposing that the number of SSA's field offices be substantially reduced to about 500. I do not agree with the Grace proposal as I think the program needs to be more people and public service oriented than that number of offices would permit. However, I do think the field structure needs a careful, thoughtful review both as to central, regional, district and branch offices and that this should be initiated even before an independent agancy is established with proposals for any substantial change held until the new Board can review them. Another area not mentioned by the Panel and one that seems to me to cry for action is a change in the organization back to close to where it was before the present "functional" organization was effectuated in 1979–80. It has had a very negative bearing on the management effectiveness of SSA. When coupled with the rapid turnover in

Commissioners and Secretaries it is only because SSA had developed a strong organization and effective management with many highly capable career employees in the years prior to 1972 that SSA has done as well as it has since then.

In its Chapter V, the Panel makes some excellent recommendations to strengthen management and accountability. With respect to management, certainly greater delegation of the various management authorities to the SSA would facilitate its functioning. Additional SES positions as well as GS–15 maximum salary for computer experts would seem to be clearly needed and deserved as compared with other agencies. That SSA should make management and executive development one of its highest priorities is also one that I would endorse 110%. Then too, a move from an annual to a biannual budget and a workforce plan rather than personnel ceilings would certainly be helpful to the new agency as it gets underway. However, I would differ on the recommendation on accountability. I would propose that while GAO would be making its normal reviews and reports of operations of the Independent Agency after it is in being and administered by a bi-partisan board and a Commissioner appointed by it, that it be given 5 years to get the program and its management functioning on a fully satisfactory basis. At that point, I would propose that a special advisory council be set up to examine SSA's current proficiency, with such assistance as it might want from GAO, and report to the President and the Congress on the functioning of SSA as an Independent Agency at that time.

CONCLUSION

(1) Make SSA an independent agency.
(2) Organize with a bi-partisan Board and a Commissioner reporting to it as proposed in H.R. 5904 and S–2778.
(3) Restrict the independent agency to the SSA and SSI programs only.
(4) Remove SSA from the Federal unified budget.
(5) Give the SSA specific additional management authorities and increase its allocation of SES positions.

JOINT STATEMENT OF JEANNETTE FANNING, PRESIDENT-ELECT, AND MARTH MARSHALL, LEGISLATIVE CHAIR, NATIONAL ASSOCIATION OF DISABILITY EXAMINERS

The National Association of Disability Examiners is the professional organization representing disability examiners who adjudicate claims for the Social Security Administration. The majority of members are employed in the fifty-four State Agencies under contract to the Social Security Administration. Although state employees, disability examiners and the Disability Determination Services, are fully federally funded in their adjudication function.

Disability examiners work closely with the Social Security District Office personnel in disability claims' decisions. They provide the medical and vocational decisions for claimants who file Disability Insurance Benefits and Supplemental Security Income claims. After making the determination, for the Secretary, to allow or deny benefits, the State Agency returns the claims to the Social Security Offices for final review of non-medical eligibility requirements and final processing of checks. The disabililty examiner, even though a state employee, represents the Social Security Administration in his/her contacts with the public, providing assistance, answers and decisions.

Therefore, actions taken by the Department of Health and Human Services and the Social Security Administration impact on the Disability Program and the State Agencies. For that reason and because of our concerns for the program, we have reviewed the recommendations of the Congressional Panel on Social Security Organization and support them.

It is NADE's belief that the Social Security Administration, as an independent agency, will be strengthened in its abilities and means to provide consistent decisions and provide uniformity (long absent in the Disability Program) for the citizens who rely upon the benefits it provides. We support the concept of an administrator who would assume the responsibility for the actions of the agency. Support by an advisory council is advisable so long as the administrator has the final authority for oversight of the programs under the agency's control. The permanency of the administrator's position for a four-year, renewable term would enhance the position and eliminate the current problems encountered when the title of "Acting" commissioner lends itself to short-term actions by the incumbent. We further support the upgrading of executive staff positions so that they are competitive with the private sector. This would encourage the upper level managers to consider longer careers and involvement in long-term improvements in the agency. Provisions for the Social

Security Agency to hire and promote from within and through outside recruitments, those persons most qualified for positions and with career-orientations, would enhance the quality of decisions.

We believe that an independent agency would be better able to secure the equipment, as well as personnel, needed for rapid, accurate service to the public. Updated computer systems alone, would provide access to records, which now take excessive time to obtain or cannot be retrieved in time for incorporation in a decision. Ability to obtain case folders and decisional data are imperative for correct decisions for applicants as they can affect benefit amounts. NADE also supports the recommendation that the agency have responsibility for old-age, survivors and disability insurance and Supplemental Security Income. These programs have overlapping features and the disability portion of the SSI program coincides and uses the same medical criteria as that for Disability Insurance Benefits. Medicare and medicaid, however, should remain with the DHHS, as per panel recommendations and supportive testimony of the GAO. By the same token, we concur with the proposal to remove from SSA's jurisdiction programs on aid to families with dependent children, child support enforcement, low income home energy assistance, and refugeee resettlement assistance.

NADE supports independency because it would provide for a stronger administration than currently exists. It would also bring back the consistency and uniformity for which the agency was renowned in years past. Pride in workmanship would be reinstated to employees, with resultant increases in morale and thus better productivity. More importantly, public confidence in the program would be restored. This is especially important for a publicly funded program, and would lead to increased cooperation by the public with the agency.

STATEMENT OF STANFORD G. ROSS, ARNOLD & PORTER, WASHINGTON, DC

I am pleased to have the opportunity to comment on the Study prepared by the Congressional Panel on Social Security Organization. I had the opportunity to testify before the Panel and to contribute to their deliberations, and I believe that it is important to comment on the results of their deliberations. The matters addressed in their Study are both very important and very complex.

Let me begin by saying that I think the Panel has produced a thoughtful analysis and suggested reasonable solutions, given the strictures of the mandate under which they worked to produce an implementation study. I think the major criticism that I would make of their study is that the implementation mandate prevented them from considering some of the more basic issues that should have been considered with respect to Social Security organization and limited their ability to bring the full measure of their experience and expertise to bear on their Study. It is, I think, at least partly because of the limitations under which they operated, that they were led to some suggestions that ought to be further considered before the Congress takes any action.

The key elements of their report, as I view it, are (1) the Social Security Administration should remain under a single administrator subject to Presidential control, rather than operate as an independent agency under a board; (2) administration of the Social Security and SSI programs should be separated from that of any other income security programs; and (3) various management improvements should be authorized for the Social Security Administration. I think the first and third of these three elements are basically sound and, while I take exception to the second as a matter of judgment, I acknowledge that it reflects reasonable judgments by serious and experienced people.

I believe the major problem is that the question of how some of these elements should be achieved is not fully and adequately addressed because of the failure of the study to consider how the country is to have a better policy focus on Social Security and other income security programs. The failure of the mandate under which the Panel operated to ask them to worry about how future policy and legislative changes in Social Security will be formulated and how the need for improved policies fits in with management improvements, is a severe limitation on the soundness of the particular reforms that they recommend.

I believe that one of the most serious domestic problems in the United States is the failure to address income security policy issues in a comprehensive way. There does not exist a government-wide focus on income security programs and, as a result, we have piecemeal attempts to reform individual programs such as Social Security, Medicare, Aid to Families with Dependent Children, Civil Service pensions, military pensions, private pensions, and so forth. I think there is no higher priority

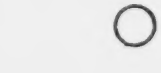
on the domestic side of government than finding a place for a comprehensive retirement income policy focus that looks at all programs together and attempts to bring rationality to this area. We must eliminate the waste, inefficiency and unfairness of having multiple programs that randomly differentiate between beneficiaries. Giving different benefits to different groups of our citizens without any rational basis for doing so cannot go on forever.

Moreover, continuing questions of financing, benefits, and the relationship of income security programs to the Federal deficit and fiscal policy, require a comprehensive approach in this area to policy issues. There must be political accountability and an improvement of the political response to these issues.

Because of my concern for a better policy focus on all income security issues, I do not agree with the Panel that the Social Security Administration should be constituted in a separate agency. Rather, I would redesignate the Department of Health and Human Services into a Department of Income Security, with a Secretary, responsible to the President for providing an overall focus on income security programs, including Social Security and SSI. I would achieve the separate and independent status for the Social Security Administration that the Panel wants, and considers necessary for the better administration and management of Social Security programs, and I agree with them on the need to accomplish this end, by constituting the Social Security Administration as a separate operating agency within the new Department of Income Security. The Social Security Administrator could be an independent appointment of the President at the grade level suggested by the Panel and a separate advisory committee could be constituted in the same way as they suggest to work with the Administrator. The Social Security Administrator would, in effect, have the same relationship to the Secretary of Income Security that, say, the Director of the FBI has to the Attorney General within the confines of the Department of Justice and the head of the National Safety Transportation Board has to the Secretary of Transportation within the confines of the Department of Transportation.

While the Social Security Administrator might have less of a policy role under this format, I think that would be beneficial, since the Administrator could then concentrate exclusively on management and administrative concerns. The model I advocate is very much like that of the Commissioner of Internal Revenue, who can concentrate on the administration of the tax laws and management of an agency of comparable size to Social Security. Tax policy matters are handled by the Secretary of the Treasury with the assistance of a tax policy staff under an Assistant Secretary of the Treasury. The Commissioner of Internal Revenue largely contributes to policy formulation based on administrative considerations, and the integrity of the administration of the tax laws is better maintained by his lack of a major policy and political role. I think this model would work well for a new Department of Income Security with a Social Security Administrator who is essentially a manager and administrator and not a policy and political person.

The principal problem we have now is that the Department of Health and Human Services is not properly denominated and lacks proper policy orientation. Health programs largely require supervision by experts and they should be also separately organized within the Department with an Under-Secretary for Health, or a Health Programs Administrator, who can manage the health programs. The Secretary of the Income Security Department should be someone concerned with the broader policy focus that is required to bring all programs in the Social Security, Medicare, private pension, welfare and health areas into proper focus, and in better harmony, and also to help the President with the problem of coordinating similar income security programs that are administered out of other departments, such as Defense, Labor, Treasury and so forth.

It should be understood that although administrative improvements are needed in a variety of areas, they should be achieved by careful study and implementation of comprehensive plans for such areas. It is not necessary or desirable that all programs be moved to the Department of Income Security. The new departmental focus, however, should aid improved administration to be achieved in all income security areas, wherever they are administered.

While these may seem to be bloodless issues of government organization, I for one am convinced that only out of institutional reform and improved government organization will we achieve improved policy. I, therefore, would urge you to take these matters seriously, to consider the problems deeply, and to provide guidance to the Congress as a whole on the importance of taking constructive action in this field. If I can be of further help to the Committee, I would be happy to do so. Thank you for the chance to express my views.